Between Failure and Redemption

The Future of the Ethiopian Social Contract

Proceedings of a convening of scholars on Ethiopia's constitutional future

Addis Ababa

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ACRONYMS AND ABBREVIATIONS

AESM	All-Ethiopia Socialist Movement, better known by its native Amharic acronym መኢሶን (*Me'ison*)
ADP	Amhara Democratic Party
ANDM	Amhara National Democratic Movement
Art.	Article (of laws)
BBI	Building Bridges Initiative, a 2019 initiative proposing amendments to the Constitution of Kenya.
CUD	Coalition for Unity and Democracy (a political party once in existence in Ethiopia, 2004-2007, established as a coalition of four existing political parties and which emerged as the main competitor to the then ruling part, EPRDF, in the May 15, 2005 Ethiopian General Elections).
Const.	Constitution (the 1995 Constitution of Ethiopia)
ʾEċāte — እጭኣት	Amharic acronym for "Ethiopian Oppressed People's Revolutionary Struggle," a communist organization in Ethiopia in the 1970s
EPLF	Eritrean People's Liberation Movement
Eth. Const.	Ethiopian Constitution (the 1995 Constitution of Ethiopia)
EDU	Ethiopian Democratic Union
EPRDF	Ethiopian People's Revolutionary Democratic Front
EPRP	Ethiopian People's Revolutionary Party
ESM	Ethiopian Student Movement
EU	European Union
FDRE	Federal Democratic Republic of Ethiopia
FDA	Foucauldian discourse analysis
GERD	Grand Ethiopian Renaissance Dam

ICCPR	International Covenant on Civil and Political Rights
MoFA	Ministry of Federal Affairs
NNPs	nation, nationality and people
NHRIs	National Human Rights Institutions
OLA-Shene	Oromo Liberation Army, a splinter group of OLF
ONLF	Ogaden National Liberation Front
OFC	Oromo Federalist Congress
OLF	Oromo Liberation Front
OPDO	Oromo People Democratic Organization
PDRE	People's Democratic Republic of Ethiopia
Pmbl.	Preamble
PP	Prosperity Party (Ethiopia)
SRS	Somali Regional State
SEPDM	Southern Ethiopia People's Democratic Movement
SNNPRS	Southern Nations, Nationalities and Peoples Regional State
HoF	House of Federations
TPC	The Transitional Period Charter of 1991 (Ethiopia)
TPLF	Tigray People's Liberation Front
TGE	Transitional Government of Ethiopia
WPE	Workers' Party of Ethiopia

NOTE ON LANGUAGE

For the sake of consistency and simplicity in pronouncing Amharic terms in Latin alphabet the American Library Association – Library of Congress (ALA-LC) transliteration system for the Amharic language has been used. However, common standard spellings for names of persons, places and things are maintained in preference to the ALA-LC transliteration system.

GLOSSARY OF LOCAL TERMS

Abba Gadaa   Traditional leader (head, president) in the Oromo
                               community according to the Gadaa system (the age and
                               generation set governance system of the Oromo).

'Aḥādāwi   Centrist/unitarist mindset (in the context of state
(አሃዳዊ)   structuring/governance)

'Aḥemade gerāñe   'Ahmad the left-handed or southpaw', refers to Ahmad ibn
(አሕመድ ግራኝ)   Ibrahim al-Ghazi, imam and general of the Adal Sultanate
                               (c. 1506 –1543) which invaded Christian Ethiopian
                               Empire.

Arat Kilo   (In Addis Ababa) the locale where the Government of
                               Ethiopia is hosted.

'Awurājā ā gezāte   Sub-province governorate (under the Imperial Ethiopia
(አውራጃ ግዛት)   administration, provincial governorate (under the *Derg*
                               administration)

'Azemāče   During the Imperial Ethiopia, vanguard leader or military
(አዝማች)   commander acting as the Monarch's representative in
                               different parts of the country during the imperial Ethiopia.

Bāhere-zāfe   Eucalyptus tree
(ባሕር ዛፍ)

Bālābāte   Local noble man (nobility) who acts as an intermediary of
(ባላባት)   the central Imperial government.

Ċesañā   Tenant farmer, sharecropper
(ጮሰኛ)

Derg	The military committee formed in 1974 in Ethiopia which ended imperial rule; by extension the socialist government in power from 1974 to 1991.
'Edere (ኢድር)	Mutual aid association of a neighborhood for burial and mourning.
'Emā (እማ)	Mam!; Mammy!
'Eqube (ዕቁብ)	Mutual aid/credit association in which the members meet at stated intervals and contribute a fixed sum, after which a member selected by drawing lots will receive the total of the contributions (less the chairs fee)
'Eresete (እርስት)	Inherited land; Land to which title is acquired by hereditary right through descent from the original owner through any combination of male and female ancestors.
Fano	(In Amhara community), an individual or group of individuals who volunteer to give time and exert effort for a community cause, specially in the form of fighting off a threat to the community.
Fāqere (ፍቅር)	Love, affection, fraternity
Gabāre — ገባር; plr. *Gabāroče* — ገባሮች	Tribute-paying local farmer who provide to the *Bālābāte* (ባላባት) and the ነፍጠኛ/*nafeṭañā* -turned-privileged hereditary class with determined amounts of services and produce.
Hamle	Month of July
'Iteyopeyā teqedame (ኢትዮጵያ ትቀደም)	Ethiopia First
'Iteyopeyāwinate (ኢትዮጵያዊነት)	Ethiopian-*ness*

Kebele/ qabalé	Lowest level of local administration/state administrative level
Kelele *(ክለለ)*	Region, the federating units of the Federal Democratic Republic of Ethiopia.
Leyu qabalé *(ልዩ ቀበሌ)*	(Under the current state structure) Special *Kebele,* a *Kebele* given autonomous status as part of the exercise of self-determination right of territorially concentrated minorities within a district (*waradā — ወረዳ).*
Leyu waradā *(ልዩ ወረዳ)*	(Under the current state structure) Special District, a district given autonomous status as part of the exercise of self-determination right of territorially concentrated minorities within a Zonal administration (*Zone — ዞን).*
Leyu zone *(ልዩ ዞን)*	(Under the current state structure) Special Zone, a Zonal administration given autonomous status for territorially concentrated minorities within a Regional State *(Region — ክልል).*
Madamare *(መደመር)*	Literally translates as 'addition,' or 'coming together"; it represents the political philosophy crafted and touted by the incumbent prime minister of Ethiopia and emphasizes synergy, unity, collaboration, pulling resources together, love, forgiveness, reconciliation and teamwork as the way forward for collective wellbeing.
Māhebarāte *(ማህበራት)*	Associations
Maketafiyā *(መከተፊያ)*	Wooden chopping board, a utensil used in Ethiopian households for chopping veg and meat.
Nafeṭañā *(ነፍጠኛ)*	Literally meaning 'gunslinger', denotes settler-soldiers during the imperial government of Ethiopia.
Nage-bane *(ነገ በኔ)*	'Tomorrow it will be my turn,' i.e., I might be the next one to suffer the same misfortune.

OroMara/Oro-Mara	A recently coined term to denote the alliance between political elites in ANDM and OPDO that brought Abiy Ahmed of the then Oromo Democratic People's Organization (OPDO) to the premiership in April 2018, ending decades of TPLF's hegemonic place.
Tewahedo (ተዋሕዶ)	In '*Orthodox Tewahedo Christianity*', Miaphysitism, dogma asserting that Jesus Christ is fully divine and fully human, in one 'nature'.
Qeerroo	*(In Afan Oromo) literally it means a young or unmarried person* but in the post-2014 political movement it symbolizes the Oromo youth movement for increased political freedom and greater ethnic representation in the federal government.
reḥerāhé (ርሕራኄ)	Compassion, kindheartedness
Sheger	Pop name for the city of Addis Ababa
Tādāgi keleloče (ታዳጊ ክልሎች)	Emerging/developing regions (in FDRE)
Taqelāye gezāte (ጠቅላይ ግዛት)	Governate-general
Tur (ቱር)	Wrong done to someone which also may befall the wrongdoer; a revolting action [which God will punish]; unrighteous action toward another person(s).
Waradā gezāte (ወረዳ ግዛት)	District-governorate
Wereda	District, lower level of administration

Ya'asetadādare wasane (የአስተዳደር ወሰን)	Administrative boundary
Yeluñetā (ይሉኝታ)	Concern for public opinion as regards own action; regard for proprieties of one's behavior.
Yeqeretā (ይቅርታ)	Forgiveness
Zamana masāfenete (ዘመነ መሳፍንት)	The Era of Princes, a period in Ethiopian history between the mid-18th and mid-19th centuries when the country was divided within itself into several de facto autonomous regions with no effective central authority.
Zamanāwinate (ዘመናዊነት)	Modernity
Zone-9 Movement	A social Media activism by a group of bloggers from Ethiopia advocating human rights and the rule of law.
Zone (ዞን)	Administrative division of a regional state under the current Ethiopian state structure.

PREFACE

Ideally, government should create and maintain the conditions for peaceful coexistence and cooperation between the political, religious, ethnic, and regional groups within its jurisdiction. Governments around the world struggle to achieve this ideal. Ordinary citizens bear the brunt of war, violence, and conflict when this ideal is not achieved. Ethiopia is not alone in falling short of creating the conditions that support peaceful coexistence in its many diverse communities, this despite the fact that government officials, opposition leaders, concerned citizens, organizations, and scholars strive to create an environment conducive to constructive dialogue. This undertaking by Ethiopian scholars, a conference entitled, "Between Failure and Redemption: The Future of the Ethiopian Social Contract" held on May 8-10 in Addis Ababa, is an effort to create and continue a constructive dialogue that will build upon Ethiopia's unique and distinguished history as well as the potential of its diverse society.

This interdisciplinary conference was the result of a collaboration between Northwestern University's Pritzker School of Law, Addis Ababa University's College of Law and Governance Studies, and the Harvard Law School's Human Rights Program, and was made possible through the financial and administrative support of Northwestern University's Roberta Buffett Institute for Global Affairs. The two-day conference brought together Ethiopian scholars from a wide variety of fields with diverse opinions. In addition to contributing papers, participating as discussants, and providing invaluable contributions in the discussions, many of the conference participants also collaborated in establishing and implementing the conference concept.

The conference brought together scholars and researchers with ongoing or established records of work on topics relevant to the conference, or who have dedicated their intellectual energies to the study of these topics. It was an honor that the invited scholars obliged us by coming together to discuss how Ethiopia's constitutional structure could manage both unity and diversity and foster a stable political community. It was a privilege to have read the insightful papers and essays, and to have listened to the enthusiastic conversations about the issues the participants strongly feel about. The

whole idea of the conference is relevant not only in Ethiopia but also for people all around the world who struggle with similar issues; there is a lot we can learn from the dialogue in Ethiopia, including in the U.S., where we have extremely polarized politics.

As these proceedings were being finalized, the Ethiopian Government and the Tigray People's Liberation Front (TPLF) signed on November 2, 2022, an Agreement for Lasting Peace through a Permanent Cessation of Hostilities, and further negotiations continue. We are hopeful that the ideas articulated here can help transform this fragile truce into a stable and just future, not only in the northern regions of Ethiopia, but across its entire territory.

I want to thank the participants for being part of this conference and the people who organized it. I want to thank Dr. Abadir M. Ibrahim and Dr. Mizanie Abate in particular for initiating the conversations this conference grew out of. A special thank you to Prof. Sossina Haile and Seife Ayalew who, although they were eventually not able to join the meeting in Addis, have played such indispensable roles as members of the organizing committee. I also thank Symon Ogeto and SEED Group for organizing the conference wonderfully. I am also grateful to Dr. Getachew Assefa from the School of Law at Addis Ababa University (AAU), for partnering with us for this conference and for the long-established relationship between AAU Law School and Northwestern University. I also thank Rediet Baye Ayalew, who was on the job facilitating the conference, Kokebe Wolde from the School of Law at AAU for assuming the responsibility to prepare and edit the conference proceedings, and Abchu Wassihun and Loid Taye for serving as conference rapporteurs. I would also like to thank Northwestern University Libraries for supporting us in the publication and distribution of the conference proceedings. Special gratitude extends to the whole team at the Buffett Institute for Global Affairs in Chicago who helped us with the budget for this conference.

Thomas F. Geraghty

Class of 1967 James B. Haddad Professor of Law Emeritus
Director Emeritus, Bluhm Legal Clinic
Northwestern University Pritzker School of Law

INTRODUCTION

The conference that led to this publication was held at a time when Ethiopia was facing enormous challenges. In addition to armed conflicts and inter-communal violence across the country, the nation was faced with the militarization of state and non-state institutions, high population density accompanied by youth unemployment, food insecurity, real and perceived inequality and discrimination among ethnic groups, ethnic and political polarization, and widespread human rights abuses, including war crimes and crimes against humanity. At the core of these issues lay a state-building process major constituencies and elite groups were either alienated from, forced upon, or coopted into. Unable to derive political legitimacy from democratic participation, successive governments largely relied on coercion and neopatrimonialism, modulated by constitutional narratives and reform efforts including the imperial regime's attempts to establish a constitutional monarch, the Derg's abolition of the ጋባር (*gabār*) system, and the EPRDF's recognition and prioritization of linguistic and cultural rights.

Despite an initially promising political, legal, and institutional reform initiatives undertaken by the incumbent regime, Ethiopians remain divided in their views about what kind of constitutional structure has the greatest potential to unify the country without compromising its diversity. In the end, in no small part due to another missed opportunity to reform, neither a stable political system nor peace have been achieved. Whereas the wars that were taking place in the northern and western parts of the country were the most notable, political and inter-communal violence continued to affect significant numbers of Ethiopians in almost every regional state of the country. The pervasiveness of volatility and violence was partially illustrated by how there was at least one person in common whom most of the participants knew or worked with and who had perished in the war, many had contacts who personally joined the fighting, some had lost or were cut off from friends and family, some were in detention when the conference was being planned, and a couple could not attend fearing persecution. The venue and date of the conference were changed several times because of the same underlying context. To borrow a collage of descriptions from conference participants, the country was in 'a state of war', 'a political unsettlement', 'a

revolutionary situation', 'an inflection point', 'a transitional moment', and 'a state nearing failure'.

With this moment in the background, the conference proceeded with two main priorities. In this time of upheaval and polarization, a modest, but by no means uncomplicated, hope of the conference was to create a safe space for academic dialogue. Despite the fact that all of the participants were personally affected by the regrettable state of affairs, and despite some challenges that sought to directly target the conference itself, the conference was successful in creating a space conducive to the free expression and exchange of ideas. From a substantive point of view, the conference aimed at facilitating an academic conversation about the social and political challenges that ought to be addressed in Ethiopia, the strengths and weaknesses of its constitutional structures as pertinent to these challenges, and ways of building a resilient polity. This publication is meant to bring this dialogue, including the specific insights, conclusions, disagreements within it, into the public sphere hoping that it will infuse nuance into the broader political discourse.

This publication contains the papers and essays presented at the conference followed by transcripts of the discussions that proceeded from the presentations. Some of the presentations were followed by dedicated discussant presentations, which are included in the publication as well. The range of the topics discussed is not amenable to easy categorization. The discussions covered a broad range of topics and traversed several disciplines and theoretical orientations. Although the order in which the discussions were held followed common themes and subjects during the conference itself, the order was also affected by extraneous factors such as scheduling needs. The publication thus reorganizes the papers and discussions to fit together thematically rather than presenting them based on the chronology in which they took place. It is also important to note that authors were given an opportunity to revise their submissions as per feedback they received through the discussions.

Two of the papers which make up the first section focused on the creation of a resilient political community through deliberations that take place outside the state apparatus. Semeneh Ayalew's presentation, in addition to turning to the emotive, affective, and

sentimental, proposed recentering the social field as a site of politics. Starting with a critique of liberal democracy, and therefore also the social contractarian assumptions behind the conference, Semeneh proposed mobilizing social assets and virtues, most notably pointing to ርሕራሄ (*reḥerāḥē*), which he translated as radical compassion, to humanize Ethiopian politics from outside of the state. Zelalem Mogessie Teferra's presentation, which followed Semeneh's in not making the state a central feature, sought to center political and historical discourse on understanding and empathy. Zelalem's proposals targeted elite discourse which, if successful in transcending a politics of victimhood and resentment, he hoped would create space for a broad-based elite bargain.

The second section contains the discussions of two panels centered on specific social groups within the context of hypothesized transitional constitutional moments. Tigist Shewarega Hussen and Teguadda Alebachew Sete argued that the use of an intersectional approach to women's rights should lead to the reconsideration of what they rendered as the current Ethiopian constitution's phased liberation approach. They argued in favor of reframing the Constitution around citizenship that does not take ethnicity as an organizing principle. Juweria Ali and I, approaching intersectionality from another angle, directed our attention towards minority and indigenous groups and their marginalization on the basis of multiple identity markers. Taking Somalis as a case study, and resorting to both legal and Foucauldian discourse analysis, we contended that a constitutional (re)negotiation will most likely disadvantage minorities and indigenous groups unless special measures are taken to avert such an outcome.

The most common theme that featured in the discussions was that of the management of diversity, or more specifically the interaction between ethnic, linguistic, and cultural heterogeneity and the political system. Unsurprisingly then, six of the 14 papers, which make up the third section, focused on different facets of federalism in Ethiopia. Yonatan Fessha and Berihun Adugna Gebeye outlined some of the contradictions in the current constitutional system which can be hyper-(con)federal and/or hyper-unitary depending on time, circumstance, or topic. From this baseline, Yonatan went on to underline the need for constitutionalism and the rule of law while Berihun, in addition to pointing out aspects of the Constitution that ought to be rectified, pointed

to the difficulties behind establishing constitutional democracy under the current system. Assefa Fiseha, noting the extreme levels of centralization under a federal constitution, supported the implementation of the current federal constitutional system, while Adeno Addis argued that the current system provided too thin a basis for citizenship to achieve the goals of national integration. Mohammed Dejen Assen reached a conclusion that overlapped with that of Adeno Addis, but concentrated specifically on the organization of political parties and state boundaries along ethnic lines. Zemelak Ayele, touching upon the salient features of the current system, concluded that a negotiated settlement is unlikely to lead to a revision of the ethnic-based organization of states while a top-down authoritarian approach is going to risk exacerbating political conflict and violence.

Not moving away from the discussions of the intersection between diversity and politics, but instead shifting the attention from federalism to shared rule and the representation of ethnolinguistic groups and regional states at the center, two panels considered the potential of consociational arrangements. Assefa Fiseha, noting that Ethiopia is a typical example of a deeply divided society in which identity politics is salient, suggested the implementation of legislative and executive power-sharing arrangements at the federal level. Adem K. Abebe made a case for a liberal, as opposed to a corporatist, consociationalism in which political parties that win a pre-set share of the vote are assigned a pre-set number of cabinet positions. In addition to leaving to voters the question of whether they want to vote along identity lines, he noted that such a system would also have the added benefit of strengthening opposition parties. The papers and discussions that featured in these two panels constitute the fourth section of the publication.

While history featured in most of the presentations and discussions, historical analysis played a sizable role in bringing out the conclusions of three papers contained in the final section. Getachew Assefa Woldemariam captured millennia of Ethiopian political history which he contextualized within another historical moment—the debates within the Ethiopian Student Movement. He concluded that the failures of successive regimes lay in their inability to establish an inclusive and democratic system of governance. Shimelis Kene, utilizing postcolonial methods, problematized key assumptions behind attempts at state building which he cast in light of Ethiopia's

modernization project. Semir Yusuf identified two dominant perspectives on Ethiopia's political history, which he critiqued for focusing too much or too little on the role of the state in the (re)production of ethnic divisions. He contended that understanding the dialectical relationship between state and non-state actors is key to breaking out of the recurring cycles of political unsettlement. Semir also proposed that finding a way out of Ethiopia's current predicament requires a new experiment, an inclusive and participatory approach, and a departure from the heretofore unsuccessful precedents of winner-commandeered political settlements.

On balance, there was concordance among participants on many of the strengths and weaknesses of the current constitutional system, and on the advantages and disadvantages of alternative constitutional configurations discussed. Some of the specific issues on which there was broad agreement included the historical and social underpinnings of the status quo, the need to see processes of constitutional reform as more than just legal or state-centered phenomena, and the need for a participatory and inclusive constitution-making process. Although readers will not find polemical vitriol in the discussions, it is also important not to read too much into the moderation and civility with which the conference proceeded. The discussions assumed that not all variables can be taken into account when discussing one topic—this fact, together with intellectual humility, prevented discussions from being disposed to excessiveness. Although agreement on policy prescriptions would have been welcome, the conference was not designed to conduct exercises that would lead to, or test out the possibility of, agreement on specific conclusions. Thus, the contents of this publication should be seen as an exploration of potentialities, an exploration and a conversation that has continued after the conclusion of the conference. This publication will be made widely available to politicians, civil society organizations, the media, and the public both online and in print so that the conversation continues outside the physical confines of the conference.

Abadir M. Ibrahim, J.S.D.

Associate Director
Human Rights Program
Harvard Law School

Opening Remarks

Prof. Sossina Haile, *Northwestern University, U.S.A.*

የተከበራችሁ እንግዶች፥ ክቡራት እና ክቡራን፥ (*yatakabarāčehu ʾenegedoče, keburāte ʾenā keburāne*), Honored guests,

I applaud you for accepting our invitation to participate in substantive and nuanced discussions about the challenges Ethiopia faces and the kind of constitutional structure its people desire. Ethiopia is at a critical juncture, and the world is watching where the winds of change will take us.

As some of you know, I grew up largely in the U.S. after fleeing the horrors of the Derg. In many ways, we were the lucky ones.

Over the years as an Ethiopian-American immigrant, I have thought a great deal about identity. As a young refugee I both embraced and ignored my Ethiopian identity. When strangers passed me by in a small town in America and insulted me with their famed "n-word," I protected myself by believing the insult was misguided because it could not possibly apply to me. My Ethiopian identity gave me refuge, thus the unconscious embrace. On the other hand, when I received my permanent residency card (the coveted green card) from the U.S. federal government, I found that my nationality was listed as "stateless" and I was truly delighted. I somehow felt this meant I was a citizen of the world with limitless freedoms, and thus, the rejection of identity.

As an adult, what I know now is that identity matters much more than I realized and was willing to consciously accept. As a scientist, I find the importance assigned to identity troubling. Any one human being is no more or less than another based on national or ethnic identity. I used to ask my father why he felt such devotion to Ethiopia. He couldn't explain it. It was emotional and there was

nothing more to be said. I told him I could not take credit for the Ethiopian victory at Adwa, just as I could not take credit for his accomplishments simply because I was his daughter. But deep in my heart, I feel a certain pride in telling strangers that Ethiopia was never colonized, just as I feel pride in telling strangers that my father was a winner of the coveted McArthur Genius Award. It is irrational. These accomplishments are not reflections of who I am, my integrity, or my achievements, yet they contribute to my identity. Rationally, I have also come to conclude that, given how much identity informs community, those who attempt to abandon such a framework unwittingly create an unfair playing field. To put this in concrete terms, if I feed all the children in my Evanston neighborhood equally, and others do not do the same, then my children will receive a much smaller meal than the rest. Which is the morally and ethically correct choice: feed all the children or feed my own? I think most would argue that one should feed one's own children first. But therein lies the conundrum. Where does my family end, and the neighborhood begin?

You are about to grapple with these questions in earnest, and indeed many of you have already done so through your professional and scholarly works. My admittedly irrational desire is that Ethiopia can remain the pride of Africa, even the pride of Black people all over the world. I also truly hope that there can be an open and fair discussion of past grievances and how to create a society where such grievances are not repeated.

Before I close, let me thank my co-organizers, Prof. Tom Geraghty of Northwestern University Law School, Dr. Abadir Ibrahim of the Human Rights Program at Harvard Law School, Dr. Mizanie Abate Tadesse of Addis Ababa University Law School, and Seife Ayalew of George Mason University. This group of individuals has done tremendous work in guiding the program. I also wish to thank the College of Law and Governance Studies at Addis Ababa University for co-sponsoring this important event and providing additional guidance. Vital logistical support was provided by the staff at the Northwestern Buffett Institute for Global Affairs. Finally, none of this would be possible without generous financial support from the Buffett Institute and from the U.S. government. With that, I wish you a tremendously successful conference.

Dr. Getachew Assefa, *Dean, College of Law and Governance Studies, Addis Ababa University, Ethiopia*

I welcome you all to this very important conference. On behalf of the College of Law and Governance Studies of Addis Ababa University, I would like to reiterate that we want to engage in discussions that will help Ethiopia move forward as a peaceful democratic society. As an academic community we want to contribute to the betterment of the life of Ethiopians and the well-being of the Ethiopian society and promote the civilized undertaking of political discourse in the pursuit of stability and peace. So, I take this conference as one of the activities moving toward this goal; we are happy to be part of it. We look forward to more of these kinds of discussions as, I think, this is a very momentous time for Ethiopia. Of course, we have had such moments in the past which, unfortunately, were not seized upon to meaningfully improve the political culture of Ethiopia. Now again we are at a very good juncture; there are initiatives and ideas for constitutional reform informed by looking back at what has gone wrong in the past thirty years and make some changes to the Constitution and other fields that affect public policy and public life. So, I hope the discussions in this conference and the papers that will be made public from it will contribute to informing policy makers and anyone who wants to benefit from these theoretical discussions. We plan to do more of this in the future. I welcome this conference and hope that it will contribute to the furtherance of the discourse on the subject. I thank Northwestern University Law School and the Human Rights Program at Harvard Law School for initiating and organizing the conference and the Buffett Institute for financially supporting the conference.

I look forward to fruitful discussions in these two days.

Thank you!

The Politics of the Social: Imagining a New Political Order in Ethiopia*

Dr. Semeneh Ayalew Asfaw

Abstract

In studies of moral philosophy, social psychology, and social theory, the politics of grievance have been highlighted as key motivations for in-group political mobilization. Grievance is foregrounded to demonstrate the link between individual feelings and sentiments, as well as group-specific feelings that determine the politics of social groups. With this in mind, this paper attempts to show affective social values as a site of politics to reimagine politics in Ethiopia at a time when conventional politics has failed us. The point I want to make is, by (re)mobilizing emotive, affective, and sentimental social values, we could perhaps transform the political domain to echo the collective sensibilities of horizontal social relations of heterogeneous groups with a view toward responding to the multiple pains and sufferings ailing our society. To illustrate the significance of affective social values in reimagining the political, this paper focuses on the notion of ርሕራሄ *(reḥerāhé)* – translated in English as 'radical compassion'. ርሕራሄ *(reḥerāhé),* as a sentiment widely shared across diverse Ethiopian linguistic and ethno-cultural groups, could have a *potentia* as a political concept since it is a feeling that entails moral responsibility to groups other than "one's own" cultural community. This paper argues, ርሕራሄ *(reḥerāhé),* if reified as a social impulse expressed in language, can morph into a valuable political principle vital to nurturing an affective bond that ties those in distress to heterogenous collectives and communities in a given political community. Especially in a polity like Ethiopia—where impoverishment, war, and natural and human calamities are our unwelcome companions—ርሕራሄ *(reḥerāhé)* as a political principle could help the emergence of a more just society.

Introduction

This paper is a reflective piece, an attempt to examine the utility of affective social values as a site of politics in imagining a new political order in Ethiopia at a time when Ethiopian society is afflicted by extreme polarization, sheer violence, and the specter of state failure. I believe there is a need to come up with alternative ways of thinking about the political, especially at this particular time in Ethiopia, when the failure of conventional politics is so palpable. So, beginning with a brief critique of social contract theory, my main interest in this paper is elaborating a politics of the social that seeks to see sociality and the politics of living together as a way of thinking about politics. By focusing on the "deep" relations extant in horizontal social relationships, I seek to examine the social as a generative site for re-imagining the political. The politics of the social envisages politics as something that is enunciated from lived social practices and the values that govern social relations. By centering my inquiry on social assets, I would like to show how we can re-imagine the political by emphasizing the political efficacy of horizontal social relations. To my mind, re-imagining a new political order at a time when conventional politics has thrown society into crisis demands that the political is conceptualized differently, in a way that interrogates the doxa that the state is the bastion and privileged space of politics. It is with this belief that, in this paper, I choose to strategically foreground an aspect of politics that concerns the movement and impulse of society to govern itself. I argue, through the deployment of the cultural resources, social assets, and sentimental ties and sensibilities embedded in horizontal social relations, we can re-imagine a new political order in Ethiopia. To demonstrate this, I attempt to show how ርሕራሔ *(reḥerāhé)* (an Amharic term defined here as radical compassion), as a commonly shared sentiment and sensibility found among diverse linguistic and cultural communities in Ethiopia, could be used to (re)build substantial social bonds between them. Through an archaeology of ርሕራሔ *(reḥerāhé)*, this essay seeks to show how this sentiment could be developed into a political principle nurtured by public practice to become a "civic virtue" that might help reimagine a new political order in Ethiopia. **ርሕራሔ** *(reḥerāhé)* is conceptualized here as a politics of the social

that can be cultivated in public practice for ethnocultural and other identity groups to "recognize" intergroup grievances.

The paper has three main sections. The first section is a note on social contract theory in an attempt to frame the issue under investigation. The second section considers the social field as a site of politics in order to recalibrate the way we think about the political and also envision a better future for society at a time when conventional politics seems to have utterly failed. The third section is an audacious attempt to think about the political efficacy of the emotive: an attempt to understand what the emotive, affective, and sentimental elements in our human and sociocultural world would help us to think about and do politics humanely.

1. A Note on Social Contract Theory: Framing the Issue

Social contract theory, arguably the most dominant theory of the state and politics, places a premium *on the state* and its laws in thinking about the political. It tends to give the state and the law the principal role in organizing political life. For social contract theory, political participation is often dependent on the subordination of "society" to the state. Often, "representative democracy" is given precedence over direct democracy, and electoral politics over self-government. Most social contract theories conceive of and seek to perpetuate the primacy of the state as an a priori condition for imagining political life. Rather than envisioning a political system where "society enters a … [self-]instituting … activity," where it engages in the creation of political institutions through the management of its own community affairs,[1] social contract theory and "political liberalism" tend to anchor sovereign political power, either in the form of a sovereign with an absolute power (as in Hobbes), or a representative government that embodies the "will of the people" (as in Locke and Rousseau). In this sense, social contract theory is founded on a notion of politics based on "the consent of the governed." In its various iterations, this theory of the state and politics has the primary purpose of sanctioning the everlasting legitimacy and perpetuation of the state by

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[1] C. Castoriadis, *A Society Adrift: Interviews and Debates 1974–1997* 4, 5, 41 (2010).

granting or revoking position of power for an organized political body. Even if social contract theorists differed in their objectives, as some (like Hobbes) tended to rationalize the power of a commanding and authoritative sovereign, others like David Gauthier seek "to safeguard the individual from oppression by … [an all too powerful] sovereign."[2] Gauthier attempted to protect the individual from the excessive powers of an absolute sovereign by introducing the notion of "authorization" into Hobbesian social contract theory. "Authorization of political authority, and … sovereign right" for Gauthier needs to be "limited."[3] It is by assigning "authorization a useful normative role," he argues, that representative governments "obtain" legitimacy. For him, it is "only when the government is effectively the agent of the people, although distinct from them, is obedience [of citizens] to political authority fully obligatory."[4] In both these tendencies, however, the centrality of the state is seen as a necessary and essential condition for politics to exist.

Proposing alternatives to social contract theory, others espoused a more popular conception of the political and asked if it is possible to think about "a constituent power that is … not … constitutively juridical but nevertheless … a political power."[5] Is it possible to imagine the political as something that is generated from a collective act of "self-legislation," a social act of the people to make laws that govern them? Can we imagine a politics of the social, a form of politics that is borne out of lived practice and horizontal social relations? It is to this question that I now turn.

2. The Social Field as a Site of Politics

What is to be gained by conceptualizing the social field as a space for thinking about the political? While recognizing that "the political" and "the social" are

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[2] Encyclopedia Britannica. *Social contract* (2021).

[3] D. P. Gauthier, *The Logic of Leviathan: The Moral and Political Theory of Thomas Hobbes* 173 (1969).

[4] *Ibid.,* 176.

[5] I. Lorey, *Constituent Power of the Multitude*, 15:1 Journal of International Political Theory 119, 119 (2019).

imbricated domains and that their energies flow into each other to constitute one another, there is value in distinguishing the social as a sphere of politics that has its own logic of relations. A strategic foregrounding of social assets that govern social relations will animate, humanize, and democratize the political arena. Shared social assets found in the sentimental, normative, and communitarian practices of everyday life can be employed to envision politics differently. *Social assets* shared across diverse linguistic and cultural communities in Ethiopia that have long served as moral adhesives that restrain excess and injustice could be used to remedy the failure of conventional politics. For example, ጡር *(tur)* and ነገ ባኔ (*nage bane*) can be cited as typical culturally embedded assets that reprimand excess by denying social legitimacy to morally indefensible acts of violence. While the first is a commonly shared notion in different Ethiopian languages that forewarns individuals as well as those in authority from harming others, [6] the second is a social norm found in different Ethiopian languages that cautions that a misfortune that happened to an individual or a community today may happen to another tomorrow. By (re)mobilizing such social assets, we could perhaps transform the political domain to echo the collective sensibilities of horizontal social relations of heterogeneous groups with a view toward responding to the multiple pains and sufferings in our society at the present moment.

Similarly, mutual aid associations served as shared social assets that characterize social life in and between diverse Ethiopian communities. Mourning rituals and grieving for the dead is a community affair. እድር *('edere)* (mutual aid associations of neighbors to mourn the dead) have long been sites where folkish solidaristic ties were fostered. Where death, grief, and mourning nurtured social cooperation and activity, they helped forge social cohesion in a society where "the community" is often a composite of heterogenous groups. In the Ethiopian cultural orbit, the family members of the deceased almost never mourned and grieved alone. The whole neighborhood mourned with them. These communitarian bonds and the mutual aid assemblies that facilitated these gatherings have long helped solidify a

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[6] ጡር (*tur*) could be considered one of the fundamental normative principles governing associated life in Ethiopia, as it is shared by various linguistic communities in the country. See for instance ደስታ ተክለወልድ፥ አዲስ የአማርኛ መዝገበ-ቃላት (Dasetā Takelawoled, *Ádise Ya'amāreñā Mazegaba Qālāte* - Desta Teklewold, *New Amharic Dictionary*) 544 (1970).

sense of community and promoted communal care. They served society as spaces of generative social fellowships and covenants. They enabled the forging of networks for collective action through communal work, friendship, and neighborliness in heterogenous communities. In this moment of crisis in Ethiopia, therefore, these social assets could become serviceable devices, vital to the activation of the social field as a site of co-existence and co-creation.

While the politics of the social is closely associated with culture and can involve social and cultural values that animate horizontal social relations, the politics of the social is similar to what philosopher Castoriadis calls the "[self-]instituting … activity" of society, whereby society creates political institutions to manage its own community affairs.[7] It is about the social practices of society that institute society, not only through deliberative politics but also in the ways in which social forces negotiate their relations in the social field. While not every social action should be seen as political, the political formativeness of social action has to be recognized to reclaim and strategically foreground the social foundations of politics.[8] In this sense the politics of the social is not reduceable to the "cultural identity" of a particular society, as it also pertains to the practices that societies perform to sanction their social and political institutions. The politics of the social can thus be seen as sets of practices where society *transforms* its institutions through collective action.

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[7] Castoriadis, *supra* note 1: 4, 5, 41.

[8] For a detailed discussion on what kind of action constitutes "political" action, see Adolph Reed's *Class Notes: Posing as politics and other Thoughts on the American Scene*. Here, Reed criticizes the tendency in contemporary left scholarship on the meaning of politics. For him, many are guilty of "spinning [sic] narratives that ultimately demean concerted political action by claiming to find … [politics] everywhere" (Adolph Reed, Jr. *Class Notes: Posing as Politics and other Thoughts on the American Scene* 86 [2000]). Reed is correct in signaling caution in this regard. If everything is politics, basically politics is rendered meaningless. While taking this critique seriously, it is at the same time important to note that the notion of "everyday life as politics" could be a useful way to recognize the political formativeness of everyday social practices and their linkages with explicit and/or organized political action.

3. In Defense of the Political Efficacy of the Affective[9]

Implicit in the rest of this paper is the question how a new political order in Ethiopia can be re-envisaged in a way that makes the political system is pliable and attentive to sensibilities that help forge social bonding between and among heterogenous communities that are polarized along ethnocultural and identarian lines. It is with a view to illustrate the significance of the affective in reimagining the political that I focus here on the notion of ርሕራሄ *(reḥ erāhé)*—a sentiment with local situatedness that is commonly shared among numerous Ethiopian linguistic and ethno-cultural groups. I will argue that, if reified as a social impulse expressed in language, ርሕራሄ *(reḥ erāhé)* as a political principle has the *potentia* to transform political life in Ethiopia. Given its moral appeal—its articulation and conceptual development in public life (say for instance in the academy, in art or literary circles) it could become a "civic virtue" with a prospect of furnishing the emergence of a more just society that is sensitive to human suffering. Especially in a polity like Ethiopia whose modern history is frequently dotted by impoverishment, civil war, and natural as well as human calamities, ርሕራሄ *(reḥ erāhé)* can be a valuable political asset vital to creating an affective bond that ties those in distress. In this essay, ርሕራሄ *(reḥ erāhé)*, as more than a personal action-oriented concern (affect) for the suffering of others, is conceived as a collectively shared sentiment and response to generalized and widespread "social suffering." In this sense even if ርሕራሄ *(reḥ erāhé)* is conceived as a "voluntary" act necessitated by social suffering, it can also be a sentiment that is incited by the mutual acknowledgement of pain and suffering generalized in a polity. This way it becomes also a moral requirement given primacy in social and political relations. However, it is worthy of note that ርሕራሄ *(reḥ erāhé)* is not the only action-oriented emotion. Emotions such as fear, hate, resentment, and others could also spur individuals or collectives into action. Therefore, ርሕራሄ *(reḥ erāhé)* is not the only emotion that incites collective action. This is why any serious attempt to develop ርሕራሄ *(reḥ erāhé)* into a political principle needs to understand

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[9] This section is greatly enriched by queries, comments and personal discussions I had with participants of the conference on "Between Failure and Redemption…", who graciously but critically engaged with my presentation.

"its triggers"[10]—the conditions of its emergence. This means the factor(s) that trigger ርሕራሔ *(reḥerāhé)* and the ways in which its political potentials can be realized should be given serious attention if it is to be made a "civic virtue" to re-order our political life, and perhaps to make our laws more pliable to the sensibilities and values that govern our horizontal social relations.

In studies of moral philosophy, social psychology and social theory, "the politics of grievance" or "indignation" has been highlighted to conceptualize and understand the link between individual feelings and sentiments and socially shared feelings, and their decisive role in determining the politics of social groups (especially identity politics, including but not limited to ethnic and racial communities). A well-developed theory of social conflict in this regard is what is known as "The Struggle for Recognition." Recognition as a key political concept and principle is developed by articulating the link between the identity or "cultural particularity" of individuals with the shared "moral feeling of disrespect" of collectives. One of the most significant works on recognition is Axel Honneth's *The Struggle for Recognition*[11] wherein the lack of recognition or the "moral feeling of disrespect" by social groups (classes or cultural communities) is emphasized as the main generator of political discontent and social conflict. The feeling of a lack of recognition that groups harbor, and the resentment that this foster towards other groups that are believed to deny recognition, Honneth argues, goes beyond articulating and fighting for the fulfillment of the economic

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[10] Mulugeta Mengist used this term in his reaction during the presentation of the first draft of this paper, at the conference themed "Between Failure and Redemption…," to refer to the conditions that trigger ርሕራሔ *(reḥerāhé)*.

[11] Honneth's point of departure for his theory of social conflict is Hegel's political philosophy. Honneth regards Hegel's notion of "The Struggle for Recognition" to be "incomplete" as it falls short of conceptualizing social conflict generated as a result of group-specific struggles for recognition. He says "Had [Hegel] consistently carried the logic of [the] process" that results in the construction of the social world as an ethical learning process leading, via various stages of a struggle, to ever more demanding relationships of reciprocal recognition "into the constitution of ethical community, that would have opened up the form of social interaction in which each person, in his or her individual particularity, can reckon with a feeling of recognition [which he or she feels with other members of his or her group] based on solidarity … But this step … is not a step that Hegel ever took" (Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts* 62 (1995).

interests of discontented groups. The expression and consciousness of the discontented groups' cultural particularities and their political implications constitutes what Honneth calls the politics of recognition.[12] For him the "jeopardizing … collective self-respect [that social groups share amongst themselves] … generates broad-based political resistance and social revolts." Based on empirical grounds, he argues, the key "motivational impetus for political uprisings" is a sense of disrespect and "injury inflicted upon group-specific" identities and interests. Identity politics is theorized as a function of "hurt feelings … [that] become the motivational basis for collective resistance." According to Honneth, "only if subjects are able to articulate … [these sentiments] within an intersubjective framework" and in a way effectively convey these sentiments as "typical for an entire group" can they become a tool for social mobilization.[13] Honneth says: "The point of departure for a social theory of … [conflict is that] the reproduction of social life is governed by the imperative of mutual recognition, because one can develop a practical relation-to-self only when one has learned to view oneself, from the normative perspective of one's partners in interaction, as their social addressee."[14]

Honneth's widely read and acclaimed theory of recognition puts a premium on intragroup feelings and their sense of treatment by others as the vital site where politics is generated. Moral feelings or sentiments such as **ርኅራኄ** *(reḥerāhé)*— when shared by collectivities—are different as they entail moral responsibility for other groups. Struggles for recognition can be sites of social conflict due to intragroup feelings and politics that are about the "practical relation-to-self" that they nurture in a specific cultural group. **ርኅራኄ** *(reḥerāhé)* as a political principle, on the other hand, is conceived here as a principle that seeks to grant moral responsibility unto intergroup relations or on relations between diverse social groups in a "political fellowship" or in a polity. I ask: could **ርኅራኄ** *(reḥerāhé)* as a socially shared sentiment have political value while it remains a moral precept to guide the political life of society? Some would wonder that conceiving **ርኅራኄ**

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[12] *Ibid.,* 161, 166.

[13] *Ibid.,* 164-68.

[14] *Ibid.,* 92.

(reḥerāhé) as a political concept beyond the domain of ethical and moral consideration disturbs the dichotomy between the moral and the political. But I argue that sentimental and moral precepts are not outside the sphere of politics. Moral and ethical conduct needs to be seen as integral to political relations between individuals and social groups in a society that is experiencing extreme social antagonism and hostility.[15] As will be discussed in some detail in this paper, moral conduct can be key to determining social and political relations. In Ethiopia, this is shown to be the case, for instance, in times of extreme distress and social suffering like the famines and droughts of the 1970s throughout Ethiopian society, a community tied in political fellowship. But the question that remains unanswered is: *how could* ርሕራሔ *(reḥerāhé) (radical compassion) that emerges in times of extreme distress be made into a core political principle in this time in Ethiopia when society is deeply divided along ethnonational and religious lines*? I believe that the answer to this question could be developed using several strategies. The first is by examining how ርሕራሔ *(reḥerāhé)* could be made a "civic virtue," a commonly shared value that guides social and political relations between heterogenous ethnocultural groups; this would further consider how we use ርሕራሔ *(reḥerāhé)* to deal with those who are in extreme distress (such as those living in extreme poverty or the mentally ill). The second asks how we conceive ርሕራሔ *(reḥerāhé)* as a political concept in a deeply divided and polarized political community and how we use it to deal with ubiquitous social suffering? The third strategy is to ask how we can cultivate ርሕራሔ *(reḥerāhé)* as a political principle in search of social justice and solidaristic action? The rest of this essay will elaborate on mechanisms such as these to think about and develop ርሕራሔ *(reḥerāhé)* as a political principle to reimagine a new political order in Ethiopia. It demonstrates the political value of ርሕራሔ *(reḥerāhé)*, and shows how it can become a core political principle in a multinational and multiethnic society like Ethiopia's where social suffering is generalized and pervasive.

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[15] See below discussion on Edward Shils' notion of "civility" that understands "moral conduct" of individuals and groups towards one another as an integral part of "civil society."

3.1. ርሕራሔ *(reḥerāhé)* as civic virtue

In liberal political philosophy, civic virtue refers to "personal qualities" that individual members of society ought to have to facilitate "the effective functioning of the civil and political order, or the preservation of its values and principles."[16] In this context, to a large extent, the notion of civic virtue involves the "obligations" that citizens have to the state. These obligations include, for instance, paying taxes to promote and enhance the benefits of individual citizens as well as the public at large. Participation in politics either by being in a position of "ruling" or being governed ("ruled") by giving their "consent" to the sovereign is considered a civic virtue in most liberal political systems. In addition, personal qualities such as courage and honesty are emphasized as essential civic virtues that individuals ought to have in most, if not all, political systems.[17] Nevertheless, different political systems and political traditions highlight different civic virtues. For instance, the libertarian socialist tradition that is opposed to statism and the idea of "self-sacrifice" by the individual would have a distinct understanding of civic virtue.[18] As Mathew Adams argues, the "sagacious ability to set aside individual prejudice … [for] the common good," or the courage to defend the polity, is distinguished from "self-sacrifice" and could be regarded as an important civic virtue[19] that does not necessarily conflict with the *tendency to compete*. Nor is it always necessary to tame this tendency to imagine or build a political system that values cooperation. Cooperative political systems could nurture egalitarian values, practices, and attributes that they consider "civic virtues" without denying the existence of competition as a major tendency in society, both among individuals as well as communities. Most political systems, for instance, do not deny the social impulse to privatize property or the desire of individual citizens to hold individual opinions. In political traditions that underscore social justice and

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[16] M. E. Banyan, Encyclopedia Britannica. *Civic virtue,* (2016), www.britannica.com/topic/civic-virtue

[17] *Ibid.*

[18] Matthew S. Adams, *Utopian Civic Virtue: Bakunin, Kropotkin, and Anarchism's republican Inheritance*, 1:1 Political Research Exchange 1, 2 (2019).

[19] *Ibid.*, 21-22.

equity as core political values, "civic fraternity" and "solidarity,"[20] as well as active public engagement in the affairs of one's neighborhood, community, or city would be regarded as key civic virtues. Despite, differences in areas of emphasis, however, most political traditions understand civic virtues not as "inherent human qualities" but as attributes that should be nurtured and developed in a society so that they become significant aspects of public life and public practice that are necessary for a political community to "endure."[21] It is in this sense that I would like to propose the cultivation of ርሕራሔ (reḥerāhé) as a civic virtue in a political system in Ethiopia where social suffering is generalized. ርሕራሔ (reḥerāhé) for the suffering and the unjustly treated could, much like equality, liberty or "civic fraternity," become a significant aspect of our public life[22] in Ethiopia if we have

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[20] Mathew Adams highlights "the emerging popularity of the language of solidarity in the nineteenth century, which … occupied much of the conceptual ground of civic virtue in the socialist tradition." (Gourevitch cited in *Ibid.,* 9).

[21] Banyan, *supra* note 16.

[22] In "The Virtue of Civil Society," the American sociologist and social theorist Edward Shils argues that civic virtue can be defined as a "society of civility" or "civility" where "the conduct of the members of the society towards each other … enters into conduct between individuals and between individuals and the state" (Shils, *The Virtue of Civil Society*, 26:1 Government and Opposition 3, 4 (1991). https://www.jstor.org/stable/44482551). For Shils civic virtues are nurtured and developed in society as "polished or refined manners … [to promote] respect for members of society. A society of refined manners was one in which the members acted with consideration towards each other, with an acknowledgement, institutionally embodied and assured, of the dignity of the individual, derived from his humanity and from his membership in the political community" (*Ibid.,* 8). Shils' conception of "civil society" might be considered exclusionary to what Partha Chaterjji (*Lineages of Political Society: Studies in Postcolonial Democracy* [2011]) called "political society" (the poor and the disenfranchised members of modern society who do not partake in enjoying the rights of "Bourgeoise society" and for that reason expunged from it). However, at the same time, Shils' notion of "civility" is instructive to this essay since "civility" requires that every member of society is accorded "minimal dignity." For Shils, "the dignity which is accorded to a person who is [a member of the collectivity] … is dignity of moral worth", which every member of the collectivity is expected to give to all "including … adversaries." He says, "even though [some]… belong to different parties… communities or… ethnic groups" members of the collectivity need to have "concern for the good of adversaries as well as for the good of allies" (*Ibid.,* 12-13). While Shils' discussion of civility is closely tied to what he calls "polished and refined manners" which "meant respect" for other members of society, and thus understands civility in the limited sense of "manners," his idea— that members of society with heterogenous political affiliations, ethnicities, or adversaries must be treated in consideration of their humanity—makes his notion of civic virtue attractive to this essay. Similarly, it can be argued that ርሕራሔ (reḥerāhé) could be a civic virtue that ought to be

to reimagine a new political order where *difference* and the politics of recognition degenerated into a politics of negation. The insistence here is not that ርሕራሄ (reḥerāhé) is already a sentiment shared by members of particular ethnocultural communities in their relationship with *others*. Actually, in this moment of political and social crisis and upheaval, what appears to be the case is that nationalism (in all its forms—Pan-Ethiopian or particular) has become a cause for exclusion and negation.[23] The point is rather that ርሕራሄ (reḥerāhé) can and should be nurtured as a civic virtue since it is a culturally embedded sensibility and sentiment shared across diverse linguistic communities in the Ethiopian polity. ርሕራሄ (reḥerāhé) should be a moral and political principle that is not only desirable but also imperative in a polity that is undergoing extreme political instability and faces a real threat of state failure and social disintegration. In such a context ርሕራሄ (reḥerāhé) could be a vital political principle for establishing a more just and substantively more equal political community and society.

3.2. Preliminary notes on ርሕራሄ *(reḥerāhé)* as a concept and as a political principle

This subsection discusses ርሕራሄ (reḥerāhé) as a concept and a political principle in multiethnic Ethiopia. But before I go to a more elaborate discussion of what ርሕራሄ (reḥerāhé) means in the particular linguistic and cultural location of the Ethiopian polity, let me say a few things about how emotions are theorized in Western philosophy, whose dominant tradition tended to undermine the political efficacy of affective ties. This is necessary because our understanding of what is

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accorded not only to allies but also those considered "the other," "adversaries," or even "the enemy".

23 See Semeneh Ayalew Asfaw, "A Response to Kebadu Mekonnen's "Ethiopia: Moral Indignation as an Antidote to Collective Suffering—A Reply to Semeneh Ayalew," Medium.com, (August 15, 2021), https://medium.com/@miresemeneh/a-response-to-kebadu-mekonnens-ethiopia-moral-indignation-as-an-antidote-to-collective-9307d547aaad. Here I argue that "Both pan-Ethiopian nationalism and identity politics have exacerbated the crisis of the moment, by predicating their nationalist activisms on the negation of what they consider *the other*. These nationalisms, *rather than nurturing positive, free expression of community and publicness*, I argue, *mobilized war-making speeches that caricature presumed opponents,* as enemies of peace, unity, sovereignty, development, stability, and justice."

political (and what is considered apolitical) in the academy is mainly based on this intellectual tradition. The dominant tendency in the long history of Western political philosophy unnecessarily opposed emotion with reason. More often than not, Western philosophy conceptualized emotions and feelings to be a vector of irrational feelings.[24] Many philosophers of this tradition also doubted the status of "affective ties" as "secure foundations [sic] on which to rest moral requirements."[25] This tradition tends to consider emotions to be "passive" and reactive than active, and uncontrolled and irrational than rational.[26] Notwithstanding some exceptions like Hume, the long history of Western philosophy saw emotions and feelings to be the opposites of reason.[27] By doing so, this dominant tendency diminishes the value of the affective in political life, except in major works like in Machiavelli (*The Prince*) where emotions are politicized.[28] This propensity to consign the sentimental ties that bond social forces and society to the outside of politics and to regard them as apolitical greatly undermines and downplays the political value of these sensibilities. The moral and ethical fields of social life are thus relegated as preserves of religious institutions. This essay resists the view that the state and the law are the primary seats of politics, and that sentiments have little to no political worth. In order to demonstrate the political potential of sentiments, this essay explores what happens if ርሕራሐ *(reḥerāhé)* is

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[24] A. Kišjuhas, *Reason Without Feelings? Emotions in the History of Western Philosophy,* 29:2 *Philosophy and Society* 253, 253-54 (2018).

[25] According to Andreas Eshete, Kant for instance, tended to "look down on our affections and affective ties because he thought them too fickle to serve as a secure foundation on which to rest moral requirements" Andreas Eshete, *Fraternity*, 35 *Review of Metaphysics* 27, 41 (1981).

[26] In the Cartesian tradition, for instance, emotions are "primarily" conceptualized as "the functions of a spirit, which were not actions but perceptions. When the human spirit perceived something that did not exist, 'like a vicious palate or chimera,' and also when it referred to one's own nature (i.e., towards 'the movement of the spirit'), it resulted in passions. In that sense, passions were caused, sustained, and empowered by the movement of the spirit" (Kišjuhas, *supra* note 24, 261, 254-55, 259).

[27] *Ibid.,* 270. The opposition between emotion and reason in political theory and the undervaluation of the former in politics is a subject of discussion by a dissertation under preparation at Lund University, Sweden about the politics of the Nile waters by Wondwossen Michago Seid. My discussion here owes a great deal of insight to personal conversations with Wondwossen, as well as to reading the papers that go into the dissertation.

[28] According to Kišjuhas, Machiavelli sought to teach political leaders the ways in which they can use and "manipulate" the emotions of citizens and the ruled in order to control them so that rulers could maintain their authority (Kišjuhas, *supra* note 24, 260).

incorporated as a core value in different political systems and laws. ርሕራሔ (reḥerāhé) is understood as being similar to political concepts like "equality," "equity," "liberty" in the sense that these concepts also carry in them underlying moral qualities.

When moving toward a contextualized understanding of ርሕራሔ (reḥerāhé), defining the related notions of empathy and compassion is useful. While ርሕራሔ (reḥerāhé) is closely associated and shares affinities with empathy and compassion, an archaeology of the term in its specific socio-cultural and linguistic location is crucial if we are to understand the notion in a way that captures its idiosyncrasies and develops it into a political concept.

Merriam-Webster Dictionary provides the following definitions for "empathy" and "compassion:"

> *Empathy*: the action of understanding, being aware of, being sensitive to, and vicariously experiencing the feelings, thoughts, and experience of another of either the past or present without having the feelings, thoughts, and experience fully communicated in an objectively explicit manner. It is defined as imagining, or having the capacity to imagine, feelings that one does not actually have.

> *Compassion*: sympathetic consciousness of others' distress together with a desire to alleviate it. It implies pity coupled with an urgent desire to aid or to spare.[29]

Not straying too far from the above dictionary definition, Hannah Arendt defines "compassion"—the English term that bears the closest resemblance to ርሕራሔ (reḥerāhé)—as a natural and selfless reaction to suffering. Arendt considers compassion a virtue that can be "an ideal basis for … all mankind …[to] establish

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[29] The distinction between the two terms given in the same dictionary can be synthesized to highlight their differences. While empathy is about imagining, or having the capacity to imagine, feelings that one does not actually have, compassion tends to be defined as a sympathetic consciousness of others' distress together with a desire to alleviate it. It implies pity coupled with an urgent desire to aid or spare.

a society in which men might really become brothers."[30] But at the same time, she dismisses the political value of compassion and considers it "politically … irrelevant and without consequence."[31] Rather than inciting people to action, she argues, compassion encourages inaction. For her, "when the suffering masses are 'lumped together into an aggregate,' compassion [actually] becomes pity."[32] Different from empathy and compassion, I think the Amharic term ርሕራሄ (reḥerāhé) must be understood as *radical compassion*. While, like empathy and compassion, this involves the feeling of the suffering of others, unlike the two, it is a sentiment that also spurs individuals or collectivities into action. ርሕራሄ (reḥerāhé) is a form of co-suffering that is acquired by forging communion and unity with the anguished. As an affective and sentimental reaction to the suffering of others, it is a simultaneous process of feeling and thinking that springs one into action. And, as a way of forging a communion with the anguished it can be seen as the opposite of the desire to have dominion over others. It is a way of identifying with another that incites social action. Moreover, in contrast to compassion (both in its dictionary meaning as well as in Arendt's definition), it does not imply pity; as opposed to empathy, it is not limited to imagining the feelings, thoughts and experiences of those suffering. While a selfless act towards the suffering of others is a key attribute of compassion, as in Arendt, in Amharic (and presumably other Ethiopian languages) ርሕራሄ (reḥerāhé) seems to impose a higher level of selflessness—i.e., self-sacrifice. This is true for instance in different Ethiopian communities, where women and girls are socialized to *live for* others. For example, mothers are required to sacrifice for their children. In Ethiopia, women conventionally tend to be seen as more naturally predisposed to ርሕራሄ (reḥerāhé) than men. The thinking that females are coded (presumably by nature) to live for others is a notion that is pervasive in this society. The figure of the mother, as more compassionate, nurturing, giving, and tender tends to ratify the image of a self-

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[30] A. Sharon, *Solidarity without sentimentality*, 70: 2 *Raisons politiques* 97, 105 (2018), https://www.cairn-int.info/journal-raisons-politiques-2018-2-page-97.htm

[31] Arendt affirms the view that emotion is passive. She says, "Thought is related to feeling and transforms its mute and inarticulate despondency, as exchange transforms the naked greed of desire and usage transforms the desperate longing of needs" (Hannah Arendt, *The Human Condition* 168 [1998]).

[32] Arendt cited in Sharon, *supra* note 30, 106.

sacrificing female subject in our society. This gendered connotation of the notion of ርሕራሄ *(reḥerāhé)* is one of the factors that warrants its translation here as radical compassion. The other factor that dictates the addition of "radical" to "compassion" is the way in which ርሕራሄ *(reḥerāhé)*, in the Ethiopian cultural orbit, almost always entails practical action to assuage suffering.

Let me show further how self-sacrifice is closely tied to the gendered definition of ርሕራሄ *(reḥerāhé)* as an ethical standard that is demanded of females in Ethiopian society by citing an example from art. The example I would like to cite in this connection is Tamerat Siltan's artworks that were composed of paintings and installations presented in an art exhibition in 2018 under the title "*Mektefua: A Biography.*" In this exhibition, the graphic and visual artist Siltan, foregrounds the collective experiences of women and girls by using that mundane object መክተፊያ *(maketafiyā)*—the wooden chopping board used in Ethiopian households—as a metaphor to (re)present the female body simultaneously as sites of productive vitality and the draining exertion of gendered household chore of cooking. Where conventional feminine identity is intimately linked to food making, nurturing, and catering, the exhibition projects an unsettling image of how the process of feminine identity-making is fraught with exploitation and violence exerted on female bodies. As Fanaye Gebrehiwot comments, this exhibition mobilizes the "domestic" object መክተፊያ *(maketafiyā)* to recite "the story of women's daily performance of self-sacrifice … that hides behind it." Through the መክተፊያ *(maketafiyā)*, she says, Tamerat exposes the pain and exploitation "that hides behind the idealized and overly glorified picture of እማ *('emā)* the Martyr—the all-giving, selfless, near superhuman mother who … gives up herself for the rest of" society. This, for Fanaye, is an ethical standard that is differentially demanded from mothers and females.[33]

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[33] Fanaye Gebrehiwot, *Mektefia: An "Inventory" of Pain.* Mektefua: A Biography Catalogue 6, 7 (2018). Also, an important archive that can be explored further to understand the image of the mother in this society is that of literary and artistic works such as novels, poems, and art works, as well as examinations in academic works.

While Tamerat's exhibits push us to think about how the መከተፊያ (*maketafiyā*) can serve as a motif that helps us *interpret* and talk about the sacrifices of women, at the same time, as the feminist sociologist Tamara Beauboeuf-Lafontant argues, such projections of women's strength, goodness, and self-sacrifice have been opportunistically exploited "to defend and maintain a stratified social order by obscuring … women's experiences … [of] suffering."[34] In this way, society imposes on women a duty to sacrifice themselves for the rest of society with the purpose of preserving the status quo that perpetuates their subjection. This gendered elocution of the notion of ርሕራሄ *(reḥerāhé)*, and the unequal and problematic realm of relations it seeks to establish in society, should be rejected as it perpetuates and entrenches the unequal gender relations in our society. Therefore, if we were to use ርሕራሄ *(reḥerāhé)* in our political life and seek to make it a civic virtue, we would need to make it a shared sentiment in our public practice. This means that ርሕራሄ *(reḥerāhé)* should be a moral requirement for all members of society, not just females. It is imperative to underscore, moreover, that this paradox of feminine identity-making that is authorized in our society and requires self-sacrifice as an ethical demand on women should be rejected if ርሕራሄ *(reḥerāhé)* is to be made a political principle that guides a more equal political life. This consideration demands that ርሕራሄ *(reḥerāhé)* be made a method of social relations based on the mutual acknowledgement of one another's suffering, a moral requirement given primacy in social and political relations. It must be conceived as a core value to reorder not only our "public" life but also our relations in the domestic sphere. Therefore, while ርሕራሄ *(reḥerāhé)* could be highlighted as a way of dealing with the marginalization of the disabled or the economically disadvantaged, ethnocultural injustice, class exploitation, sexual inequality, political inequality, etc., it is also crucial that, as a political principle, it also transforms gender relations in our society. In this sense, ርሕራሄ *(reḥerāhé)* could become a socially ratified value and a political principle that is mobilized to create

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[34] Tamara Beauboeuf-Lafontant cited in Stacey Patton, "Mules of the World," Wellesley Centers for Women, (last visited September 6, 2022) https://www.wcwonline.org/WRB-Issues/the-mules-of-the-world. See also Tamara Beauboeuf-Lafontant, *Behind the Mask of the Strong Black Woman: Voice and the Embodiment of a Costly Performance* (2009).

a new social and political order where it is used to deal with the concerns, needs, and interests of the vulnerable in society.

ርሕራሄ *(reḥerāhé)* shares certain fundamental affinities with fraternity. Philosopher Andreas Eshete in a brilliant essay, "Fraternity" (1981) elaborates on this notion as a "civic virtue." Andreas starts his essay by asking "what must be shared by men in order for fraternity to exist between them?" The answer for him is that civic fraternal ties arise not from natural unions (such as "domestic bonds" that are based on natural kinship or love) but as a result of ties between individuals who share a certain cause or a "public ideal."[35] He says that "fraternity represents the diverse ways in which individuals are freely drawn together by their common humanity,"[36] not by those necessarily motivated by "self-interest" but by those with "shared sentiments."[37] Arash Davari takes his cue from Andreas to argue that fraternity is a shared "affective and sentimental bond" that involves the building of alliances and the cultivation of common "visceral" bonds.[38] Like civic fraternity, ርሕራሄ *(reḥerāhé)* is an affective and sentimental bond that could be nurtured to deal with a social problem or a cause. Civic fraternity as theorized by Andreas is a civic virtue that is developed by "individuals … freely drawn by their common humanity" in "institutions within a nation and in associations that cross national boundaries."[39] ርሕራሄ *(reḥerāhé)* could be built on a recognition of suffering. Further, it is nurtured as a public practice and a sentiment that arises from the seat of our guts and is incited by it. It is a visceral reaction that occurs when we witness the pain and suffering of others with whom we are bonded in a "political fellowship." In this sense, therefore, with a view of its particular iteration in an Ethiopian linguistic and cultural context, I want to talk about its political vitality, not mainly as a moral requirement towards *all humankind*, but as a civic virtue

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[35] Andreas, *supra* note 25, 27.

[36] *Ibid.,* 44.

[37] *Ibid.,* 28.

[38] Arash Davari makes a distinction between solidarity and fraternity. While he characterizes solidarity to be a show of support that is "limited to acts of articulation" and "expression," he considers fraternity to be an elevation of solidarity as it seeks to build alliances with those one is in fraternal ties with (*Solidarity to Fraternity*, 210 Radical Philosophy 87, 88 2021]).

[39] Andreas, *supra* note 25, 37, 38.

and political principle useable to those found within the Ethiopian state. Its useability within the Ethiopian polity is emphasized in this essay because this essay is written at a particular moment in Ethiopia when extreme political crisis has generated alarming levels of social hostility and political and social disintegration. A conception of ርሕራሔ *(reḥerāhé)* that emerges from the particular spatio-cultural context of the Ethiopian polity in this moment could be crucial to recalibrating social bonds between heterogenous communities. ርሕራሔ *(reḥerāhé)*'s poignancy as a concept, political principle, and civic virtue to our present condition, therefore, lies in its insistence on the humanity of those considered to be "the other," who also should require our radical compassion, not out of *pity*, but as fellow members bonded in common collective fellowship.

The above discussion on the particular usability of ርሕራሔ *(reḥerāhé)* in an Ethiopian context brings us to a discussion of the moral responsibility that affective ties like ርሕራሔ *(reḥerāhé)* and civic fraternity demand from members of the Ethiopian polity. With regard to fraternal bonds, Andreas notes that moral responsibility is required from those in civic fraternal ties. He says, "it is impossible to flout the moral responsibilities of fraternity without forfeiting fraternal bonds."[40] In a more specific context, Kebadu Mekonnen makes an important distinction between what he calls "moral" and "ethical" communities to determine the degree of moral responsibility we bear as members of a given political community. He argues that, for human beings, "it is … proper to mourn the loss of life or egregious abuses of rights committed against" other human beings in a political community. While "one may … feel morally indignant about such evils and spring[] to action to alleviate their suffering," it is, however, difficult to "blame others" who are part of another political community "for failure to feel indignant on their behalf." Kebadu notes, "solidarity groups" such as people who are members of a state and are "associated by communal ties and political fellowships impose special [ethical] responsibilities" on members of that particular community. In such ethical communities, he suggests, "the suffering of … fellow compatriots must … elicit a sense of guilt and moral outrage." For Kebadu, "these fitting responses are required, [they are] not optional" for those

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[40] *Ibid.,* 39.

that are in "political fellowships" who are members of a polity.[41] It follows, therefore, that radical compassion, like civic fraternity, also entails moral responsibility to one another. For instance, it is impossible for an individual or a community who feels ርሕራሄ (reḥerāhé) to be involved, directly or indirectly, in the suffering of those they are in sentimental bonds with. Tacit complicity in harm done to others who are members of our political community, or direct participation in their suffering (either by supporting a political system that harms them or perpetuating their consignment) must therefore be rejected by those in sentimental bonds of ርሕራሄ (reḥerāhé).

ርሕራሄ (reḥerāhé), as a sentiment shared across cultural communities in the Ethiopian polity, could be (re)mobilized to bind individuals and ethnocultural communities that are drawn together by a sense of fragility and vulnerability of the human condition in this particular polity. As a cultural resource, it seems to me that ርሕራሄ (reḥerāhé) is "aroused" by a deep sense, and even realization of, pain, suffering, and plight. It is a sentiment that grew from and could be further nurtured in a context, and on the soil, of extreme impoverishment and precarity. In the Ethiopian cultural setting, this sentiment is wired in a national psyche that is deeply conscious of the inherent precariousness of human life. The realization of this insecurity rests on a profound recognition of the human condition. In this sense, ርሕራሄ (reḥerāhé) needs to be conceived as a civic virtue that avoids "facile hierarchies" or "comparisons" between one form of suffering, pain, and oppression over another. ርሕራሄ (reḥerāhé) could be developed in our public life in such a way that it avoids "zero-sum competition" between the suffering of different ethnocultural communities. It ought to be nurtured as a public ideal and practice to promote "mutual respect" and mutual acknowledgment "for each other's pain in the wake of histories of violence and trauma."[42]

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[41] Kebadu Mekonnen Gebremariam, "Ethiopia: Moral Indignation as an Antidote to Collective Suffering—A Reply to Semeneh Ayalew," Medium.com (August 10, 2021), https://medium.com/@kebadum?source=post_page-----eeb818b0577

[42] Social Anthropologist Steven Robins (15 April 2021), in his discussion of the risks of "competitive memory" between racial communities in the context of South Africa, argues that "facile

3.3. ርሕራሄ *(reḥerāhé)* as politics of the social: Past and present

ርሕራሄ *(reḥerāhé)* in the Ethiopian polity is known to have generated collective action in recent history. ርሕራሄ *(reḥerāhé)* as a cultural resource and affective sensibility sensitive to suffering elicited a sense of affinity and identification with the sufferer, whereby this identification had become an occasion and basis for social action and a sense of camaraderie between those tied in political fellowship. Far from being a passive emotion that encourage inactivity, ርሕራሄ *(reḥerāhé)* in our recent history has led to the emergence of mutual aid communities and folkish solidarities. This is particularly the case in times of calamities of devastating proportions, like famine. For instance, the Ethiopian famines of the early 1970s that coincided with the 1974 Revolution witnessed the flourishing of numerous youth associations and registered the coming together of mainly high school students, along with merchants, civil servants, teachers, workers, and other members of urban society. This was especially true in the nation's capital, where people organized relief efforts—to feed, clothe, and shelter compatriots affected by these famines. Collective and autonomous activity, particularly during the early months of the Ethiopian revolution, have demonstrated the capacity, creativity, and commitment of society to organize itself, and suggests to us the political validity of societal self-organization that could be incited by sentiments like ርሕራሄ *(reḥerāhé)*.

Youth groups organized themselves in various associations in the capital and mobilized to support the those battered by famine in 1974. The relief efforts of students at what was then Haile Selassie I University prompted by the presence of more than a thousand famine victims in Addis Ababa in March 1974 turned into a large-scale youth activity where high school students took up the mantle. This cohort of the famine-affected who travelled hundreds of kilometers under strenuous conditions, all the way from Tigray and Wollo, to come to the capital in

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comparisons" between the suffering of communities has the danger of undermining cooperation between those who underwent a history of trauma and political violence (Steven Robins, "Lwazi Lushaba and his Hitler analogy: The cul-de-sacs and conundrums of 'competitive memory,'" Daily Maverick, April 15, 2021).

the wake of the civilian popular protests that started in February 1974 created an occasion for the collective mobilization of residents in the capital. This legion, among the most disenfranchised of Ethiopian society, picketed the gates of the imperial parliament, located along what was then Constitution Square. After their arrival in March 1974, they held that ground using the center of the city as their theatre of protest, refusing to leave unless their petitions were heard and their pleas addressed by the imperial government. Their presence in the capital created the opportunity for university students, high schoolers and other residents of Addis Ababa to organize—independent from the government—and provide relief to these picketers and famine victims elsewhere in the country.[43] The two-day hunger strike by Haile Selassie I University students was accompanied by the distribution of food and clothes to the picketers on April 4 and 5, 1974. The picket continued for weeks to come. University students boycotted classes and staged demonstrations on their campus premises carrying slogans like "poverty is not a crime" and "land to the tiller." In the following months, relief work multiplied. School students and youth associations tended to the daily upkeep of the parliament picketers and travelled to areas most affected by the famine, distributing food and clothes to tens of thousands of people, especially in the province of Wollo. The famine inducted a period of autonomous youth self-activity that continued in earnest, at least until the end of June 1974. It galvanized popular discontent and public action and became a platform for the politicization of youth associations and networks in the capital.

The famine created a political context wherein Addis Ababa's youth found common cause with those in distress, and an opening for self-organizing on a matter of great social and political importance. The energy that the social protests of 1974 lent to these efforts, as well as the organizing that the famine problem brought to spurred among the youth, resulted in the burgeoning of new autonomously operating youth ማኅበራት (*māhebarāte*, or associations) and

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[43] Semeneh Ayalew Asfaw, "The Young and the Urban in Addis Ababa: Towards a popular history of the 1974 Ethiopian Revolution, c. 1950s-1974," 53-56, (PhD Thesis: University of Cape Town, 2021). It must be noted that university students announced the famine and tried to provide relief earlier, but their relief did not attract a lot of public visibility in national politics (Kissi cited in Semeneh, 62).

networks that also reinvigorated old ones. Some youth associations even went as far as officially breaking from the national youth body, the Ethiopian Youth Services, to proclaim their independence. The scale of the famine and the enormity of its carnages generated a strong sentiment of ርሕራሄ *(reḥerāhé)*, anger, and militancy, that further fueled opposition against the regime and boosted active civic engagement.

This history of self-organizing and civic action that occurred not too long ago illustrates the potential of ርሕራሄ *(reḥerāhé)* to create substantive social bonds in our society. Contrary to the view that sentiments do not have political utility, the above example shows that ርሕራሄ *(reḥerāhé)*, as an action-oriented sentiment, has a capacity to impel the formation of solidaristic communities. It demonstrates that ርሕራሄ *(reḥerāhé)* could generate concrete social action, particularly in times of great calamity of national scale. In this sense, it has a potential to transform this polity from the ways in which we reimagine our social relations, to the ways in which our laws reflect our cultural resources, social assets, and sensibilities embedded in horizontal relations. ርሕራሄ *(reḥerāhé)* mobilized collectives to form communions with and help those in distress. The famines of the 1970s created the conditions for the emergence of a community that "co-suffered." This was a community of those co-suffering, composed of not only the starving and the hungry, but also of others in the social collective who were spurred into action to deal with famine as a shared misfortune. The fact that grotesque images of emaciated bodies were captured and broadcast through the medium of television, arguably, made this one of the most widely mediatized famines in modern history. This consequently left an indelible scar on the national psyche of Ethiopians for generations to come. The collective shame, indignity, and trauma that the famines of the 1970s and 1980s brought to bear on Ethiopian nationals is enormous. These famines are remembered not only by those who lived to suffer and witness their consequences, but also those that came after them. The association of the polity with famine, its synonymity with hunger and human calamity remains a source of great humiliation and dishonor for many Ethiopians. It is perhaps this sense of failure and the precarity of human life in the polity that created the conditions for radical compassion to flourish in the context of extreme hunger in 1974. This,

coupled with the revolutionary conjuncture of 1974, produced the conditions of possibility for autonomously developed communities that "co-suffered" during the popular protests of 1974.

The present moment in Ethiopia is replete with man-made and natural calamities. War in the north (massive displacements in Tigray, Amhara, and Afar) and in parts of Oromia, Gambela, and the Southern Regional State; blockade-induced starvation in and of Tigray; extreme political instability and ethnic strife in Amhara and Oromia; the ever-multiplying massacres and deadly violence, drought, a rapacious government, and unabated inflation (fueled in part by the global oil and energy crisis following the war in Ukraine) have generalized collective suffering throughout Ethiopia. Yet, selective outrage has made suffering superfluous. It has impoverished our humanity by throwing society into moral crisis and by rendering death, and massacre trivial and trauma mundane, even banal. The deep sense of human fragility wired into our national consciousness, as a consequence of the multiple experiences of human catastrophe in our recent history that are embedded in the sociality of everyday people in the Ethiopian polity, is being undermined and eroded by myopic choices and is turning us into "moral monsters" in relation to each other's suffering—the suffering of neighbors, the fellow travelers who have long lived alongside each other in this polity. One wonders what levels of destruction we must witness as a society, what more devastations of war, starvation, displacement, impoverishment, and trauma must be registered to incite us to collective outrage, and prompt us to act against and reject the conditions of social or collective suffering. As discussed above, the opening that the revolutionary conjuncture of 1974 created was critical to the emergence of the radical compassion that furnished public action and autonomous collective activity to deal with the famines of the 1970s. The revolutionary Ethiopia of the 1970s makes evident that **ርሕራሔ** *(reḥerāhé)* as a collective action against social suffering had a close intimacy with collective outrage. It was not by accident that in 1974, disaffection with the imperial regime's mishandling of the famine problem and its effort to hide it from the broader Ethiopian populace and the rest of the world coincided with the revolutionary upsurge of the popular protests of 1974. Indeed, the popular anger that the famine generated was part of the widespread discontent that produced the popular

revolutionary movement in 1974. The popular energy and social action, especially among the youth that organized aid for the famine affected, became one of the main forces behind the overthrow of the imperial regime in 1974.

How could radical compassion emerge in our moment as a public practice of horizontal cooperation? How can collective action be used to influence not only state practice *but also social relations and, by implication, the political life of various social groups in a multiethnic society with* deep "communal cleavages" to build social bonds? In other words, the question that needs to be answered here is *do we have, currently, the political opportunity for radical compassion to succeed?* Perhaps the political opportunity in the present moment is that we live in a moment where *everyone is a perpetrator and a victim somewhere* and that everyone feels aggrieved. This condition of ubiquitous grievance and sense of victimhood could be a ground where radical compassion emerges to become a core political principle where antagonistic social positions could be brought together to reconcile the social cleavages and hostilities that characterize our political life in the present moment in Ethiopia.

The ubiquity and democratization of social suffering in all corners of the Ethiopian polity could perhaps be seized upon by intellectuals, artists, cultural workers, and others in the social field to cultivate radical compassion as a political principle and pedagogy of survival in the present moment. This is to say that collective outrage is warranted in this moment, when social suffering is generalized and a situation persists where the excesses of the state as well as its massive failures are producing enormous social suffering and distress.[44] In this context of state excess or failure, cooperation between members of diverse ethnocultural communities, who are torn apart by the enemy-making political

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[44] A bloody and ruinous war has been fought in the past 20 months between the Federal government, its regional allies, and the Tigrayan Regional State, generating massive destruction of human lives and infrastructure. The massive failures of the state to protect citizens from ethnic strife, massacres, and bouts of political violence that affected all regional states in the past four years are also accompanied by violence committed by state actors. Therefore, even if our present moment is very different from 1974 Ethiopia—both instances exhibit the reduced governing ability of the state, the proliferation of non-state actors, and wars waged and sustained by state actors.

discourses of the state and other powerful actors, could and must be mobilized to rebuild the social domain and continue as a society. Radical compassion, on the one hand, is a "move towards" the affective and the emotive, a substantive pedagogy of using pain as a way of thinking about an alternative politics—it proposes a politics of the social that is based on a distributive logic of caring for one another and mutually acknowledging each other's suffering. On the other hand, as demonstrated in the mutual aid communities organized to distribute whatever material resources they had to support those affected by famine in 1974 Ethiopia, this sentiment was activated as a collective outrage (expressed through protests and social cooperation) against the injustices and failures of the imperial regime. In that sense, it was an act imbued with militancy against, and rejection of, the establishment, both the excesses and failures of the imperial regime that sought to maintain security of citizens. Hence, ርሕራሄ *(reḥerāhé)* can be developed in our present moment by bringing to the fore the social suffering of communities caused by military, economic and political powers.[45] Rather than "vicariously experiencing the feelings" of suffering experienced by another (as in the case of empathy), ርሕራሄ *(reḥerāhé)* is more interested in action to ameliorate that suffering. It is an action-oriented sentiment with political efficacy. It is a mutual-aid practice, nurtured in public life and social action and infused with a profound realization that what happened to one community or human being today could happen to another or to oneself tomorrow. It is this "knowing" or consciousness that mutual aid becomes a responsibility (not *pity* or an act of generosity, as in compassion) that obliges us to feel, see, and act. In this sense, ርሕራሄ *(reḥerāhé)* is a moral act, a moral responsibility for those with whom we are in political fellowship. It is an act that recognizes the dignity of all with whom we share a political community.[46]

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[45] Kleinman et al. define "social suffering" as the "assemblages" of "human problems" that occur as a result of political, economic and military power "and how these forms of power themselves influence responses to social problems (A. Kleinman, V. Das, & M. M. Lock, *Social Suffering* xi-x [1997]).

[46] This discussion on the conditions of emergence of ርሕራሄ *(reḥerāhé)* has benefitted from conversations and gracious and critical engagements with participants of the workshop on "Speculative Practice and the Politics of the Wayward," Windhoek, Namibia to Tombua, Angola, June 25-July 7, 2022. My special thanks go to my friends and colleagues Leigh-Ann Naidoo,

Where **ርሕራሄ** *(reḥerāhé)* as a social asset is enlivened by the totalizing catastrophe of our present political moment, it could be transformed into a civic virtue to improve the relations between ethnocultural communities. Even if it is in *reaction* and *response* to our present crisis that radical compassion is proposed as a way of reimaging a new political order in Ethiopia, its efficacy is not limited to dealing with cleavages and hostilities between ethnocultural communities. It can also be used as a generative concept to transform our political system and equip it to redress the manifold social inequities found in our society—to redress, for instance, socioeconomic relations or gender norms, as well as the way society deals with disability and mental illness. The broad social consciousness of this present moment of political crisis might be a fertile ground to produce this sensibility.

Should radical compassion start with or give primacy to the most affected, the most suffering? Does it involve the commitment to aid and support the most affected? This is a key question. This raises the question whether it is necessary or desirable to hierarchize between pain and suffering. To my mind, even if it is difficult to hierarchize pain and agree as a society which section or community is the most affected and the most suffering, it is necessary to use one form of suffering to build a rapport with another form of suffering.[47] Moreover, since radical compassion is a rejection of the conditions of social suffering, the questions of social justice and equity need to be highlighted as central to its practice in public life. For this to occur, a comprehensive political dialogue would be a key tool to cultivate radical compassion between communities that adhere to different cultural, national, linguistic identities. "Letting suffering speak" is a vital condition for a horizontal social cooperation, and public dialogue must seek to make suffering visible and legible to all those in conversation. Using pain to make legible the pains and sufferings of others means using one's own pain to clarify the suffering of others, rather than making "facile comparisons" or false equivalences

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Eugene Paramoer, Sharam Khosravi, Gabriel Dattatreyan, Nashilongweshipwe Mushaandja, and Paulo Israel.

[47] Melhik Abebe raised, in the conference on "Between Failure and Redemption…," an important point in her reaction to this essay. She asked whether radical compassion should start with or give primacy to the most affected or the most suffering and asked whether it needs to involve the commitment to aid and support the most affected.

between different forms of suffering to either distinguish or lessen their significance. In that sense, therefore, while care must be taken not to assume equivalence between different forms of pain and suffering, one's own pain and suffering should be used to make the pain of the other palpable. It should serve as a basis or ground for cooperation. Dialogue and continuous debate could thus help radical compassion take root as an everyday social sensibility, public ideal and virtue, and could be a means to avoid a "facile competition" between different experiences of suffering. Hence, while cultural workers (singers, writers, poets, authors, artists, etc.), intellectuals, religious personalities, and so on could be key social agents who nurture this sentiment in the social field, more importantly a broad-based national dialogue to recognize mutual pain and suffering could provide a key, foundational moment for a new political order to take shape. For dialogue and continuous debate to be in the service of cooperation, therefore, it is important to recognize that the structural roots of various forms of suffering (political, cultural, or economic) are connected, and that appreciating one form of suffering aids the understanding of another form of suffering. It is imperative to articulate and define differences in political struggles—the oppression, violence, or suffering that constitute the subject formation and identity of various groups in a particular political community and society. This is crucial to building solidarity through the mutual acknowledgement of each other's pain and suffering without undermining difference and resorting to constructing a false equivalence between various forms of suffering for fear of what "those differences might say about ourselves", our history, and the inequities that they expose about our social relations. The coming together of heterogenous groups and communities around a public dialogue to articulate suffering and make it visible to promote horizontal social relations and radical compassion between diverse groups should not mean subsuming diversity and difference. As Audre Lorde says, in fact, "persistence in examining the tensions within diversity encourages growth toward [a] … common goal … [and] any future vision which can encompass all of us, by definition, must be complex and expanding, not easy to achieve."[48]

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[48] A. Lorde, *Sister Outsider: Essays and Speeches* 156 (2019).

Some worry that advocating for the use of emotive language such as "love" or "ርሕራሔ (reḥerāhé)" by people who wield political power is tantamount to "casting our pearls before the swine."[49] They worry, and rightfully so, that these concepts and languages can be appropriated by politicians and self-interested political elites for sinister political purposes. The use of these languages by politicians and the state that taps into sentiments like love or ርሕራሔ (reḥerāhé), they say, can be used to cover authoritarian practices by the state, especially those that mobilize religious rhetoric to strengthen their hold on power. It is true that institutionalizing ርሕራሔ (reḥerāhé) could be a recipe for another problem—i.e., the risk of corruption in the hands of the state or powerful political actors. Alongside an attempt to give ርሕራሔ (reḥerāhé) a more "predictable progression," and hence to get it institutionalized, there arises a risk and problem of it being corrupted by state actors. So, the question is: what form of institutionalization do we need to retain the "moral appeal" of ርሕራሔ (reḥerāhé) in a society and polity suffering from moral crisis? Part of the remedy to this problem could be found in asking whether institutionalization always involves the work of the state or the incorporation of such sentiments into the law. The main issue here is how to avoid ርሕራሔ (reḥerāhé) from being ossified as a state rhetoric. How can we protect sentiments like ርሕራሔ (reḥerāhé) from being colonized by the state and powerful political actors that are driven by parochial and even dangerous political interests or even used to legitimize authoritarian practice? To address this concern, I believe, "instituting" ርሕራሔ (reḥerāhé) as a core political principle and as an ideal nurtured in public social practice should be emphasized. ርሕራሔ (reḥerāhé) needs to be seen primarily as an ethics of social cooperation that is cultivated as a civic virtue; not as a state language preached "from above" to *manage* social relations (as a mechanism of building the legitimacy of those in power or as a means of

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[49] This expression was used by Kalkidan Negash in reaction to the presentation when it was presented on 9 May (at the conference: "Between Failure and Redemption: The Future of the Ethiopian Social Contract") to underscore the dangers of appropriation of notions like "love," "compassion," and "forgiveness" by state actors. Semir Yusuf also expressed similar concerns not only by drawing my attention to the dangers of appropriation of notions such as ርሕራሔ (reḥerāhé) by self-interested politicians, but also the risk of the institutionalization of such concepts by the state. This section "ርሕራሔ (reḥerāhé) as politics of the Social: Past and Present" has benefitted a lot from these interrogations, critical reflections, and concerns about the merit of using ርሕራሔ (reḥerāhé) as political concept and principle.

social control), but as a political principle developed in public practice to ratify the legitimacy of horizontal *self-governance*. This is especially imperative in the present moment where moral and political crises are upsetting social relations. However, as a public social practice, it can also perhaps be used to oblige the state and the law not only to guarantee the security of citizens but also to ensure the substantive equality and equitable treatment of all those that are tied in a political fellowship. This way ርሕራሄ *(reḥerāhé)* can be enacted in public practice to become a politics of the social that is less susceptible to the manipulations of the state and powerful political actors. The substantive social bonds that comprise the core values of collective outrage, action against injustice, and mutual aid that are embedded in ርሕራሄ *(reḥerāhé)* should be well articulated and mobilized to reenchant our politics and inform the design and conduct of "formal" political institutions.[50]

One of the purposes of this essay (even if it is not a central one) is to make the state attentive to the political value and centrality of socially shared sentiments that help forge social bonding. However, my interest in this essay is not to see society and state as fields that "occupy parallel universes." One key prerequisite for ርሕራሄ *(reḥerāhé)* to be used in the process of the "design and conduct of [formal] political institutions" of the state and the law is that the political system should further be decentralized to allow the practice of a genuine, popular, community-based democracy. In such a system, the state, along with its different tiers of governance (federal, regional, zonal, *wereda* etc.), is made just one element of the governance structure, not the only one. In such a political system, not every unit of governance is accountable or answerable to the governing party. This requires, for instance, that the *kebele* (the smallest unit of governance in the country) should be reconfigured to become an autonomous unit of popular self-government, as opposed to what it is now, the implementing organ and mouthpiece of the state. For ርሕራሄ *(reḥerāhé)* to succeed as a political principle

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[50] Even if some philosophers have deemed social bonds like fraternity, solidarity, and nationalism to be "incapable of informing the design and conduct of political institutions" (as in, for example, Sharon, *supra* note 30, 98), I don't see how the self-governing capacity of a politicised public can be actualized without its making use of its capacity to persuade the state to incorporate the values, sentiments, and sensibilities embedded in horizontal social relations into its laws.

nurtured in public practice, the Ethiopian federal system should thus be re-designed in a way that ensures direct political participation of citizens in every locality. For radical compassion to become a core principle in our political life, and for it to be incorporated in the political institutions of the state and the law, local units of popular self-governance must be strengthened. And these units should animate society at the local and national-central level. Even if institutionalizing radical compassion is crucial for it to be "predictable and influential" in society, institutionalization should happen in the realm of society's public practice. And, even if radical compassion as a principle is advocated for by social elements to enter the domains of the law or the governance structure of the state—it should be incorporated not as a policy of the state or the incumbent party but as a political principle and value that is promoted by social forces to resist all conditions of social suffering. In this sense, it becomes a principle that is mobilized to impose a negative power/right on the state so it does not become the arbiter or advocate of radical compassion. Rather, its legitimacy is put into question by society, where the state can be judged, interrogated, and removed for lacking in radical compassion. Therefore, by highlighting the role of society as a key agent of politics, I understand the governance structure of a political system as something not limited to the structure of the hierarchies of the state. It is in such a political order that radical compassion can become a principle that guide relations between ethnonational communities and between genders, classes, and marginalized communities in our society. But for this to be realized, ርሕራሔ *(reḥerāhé)* needs to become a political principle and a civic virtue cultivated in public practice to guide our political life. Therefore, when we think of incorporating radical compassion as part of the legal and political system, we are talking about what the society does to politics and the state, rather than what the state does to the social. As a site of collective action, ርሕራሔ *(reḥerāhé)* could play a role against state policies and practices that produce and perpetuate social suffering.

Foregrounding such virtues to guide social relations could help ameliorate the social polarization Ethiopia is currently experiencing. I believe, in this moment of political crisis where the precondition for the proliferation of social suffering is indifference, selective outrage and disregard for loss and pain of "the other", we must insist on

reactivating such practices. It is through an "enduring process," and over time, that affective bonds like ርሕራሄ *(reḥerāhé)* (and kin virtues such as civic fraternity) can grow into civic virtues. Not only is it crucial to give prominence to the practice of ርሕራሄ *(reḥerāhé)* in our public life to address the toxic problem of social polarization in this country, it could also play a pivotal role in co-creating a political community that is agonistic, without superficially collapsing structural differences and inequalities through false harmony.[51] The built-in historical inequities, differences, rivalries, and contesting interests and conflicts could not be wished away or resolved through a superficial discourse of a "tolerant" community. Rather, to build a heterogenous and multinational/multiethnic community bound and enlivened by common values of moral restraint and interdependent horizontal social relations of mutual aid, we need to work towards building a democratic society where "agonistic confrontation"—the disagreements, differences, and diverse aspirations in our society—are continuously debated.[52] The political domain should reflect and respond to the associated life of its heterogeneous groups as well as their concerns and aspirations. Imagining a new political order demands that we capitalize on age-old social practices, our lived horizontal ties, and cultural resources to reconstitute the social as a field of coexistence and cocreation where heterogenous "laboring communities"[53] thrive. Such a society should not only allow for the emergence of a political community that merely co-exists peaceably, but also should endeavor to create the conditions for a substantively equal and just political community to take form.

In the forgoing pages, I argued that ርሕራሄ *(reḥerāhé)* is articulated as a form of social action whose content is also political, and which can be institutionalized in

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[51] In the liberal political theorist Chantal Mouffe's discussion of "agonistic" democracy and "agonistic confrontation," Mouffe contends that a democratic society "requires accepting that conflict and division are inherent to politics and that there is no place where reconciliation could be definitively achieved as the full actualization of the unity of 'the people.'" For Mouffe, "agonistic confrontation"—continuous debate, disagreement, differences, and deliberations are vital in the creation of democratic politics in modern societies (Mouffe, *The Democratic Paradox* 8, 15-16 [2000]).

[52] *Ibid.*

[53] M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* 140, 186, 283-88 (1996).

the form of social norm and nurtured in public practice. I do not want this essay to be read as a "discounting" of the state and its role in politics. The state is definitely relevant and its role in politics cannot be underestimated in any attempt to imagine a new political order. But, at the same time, the central argument of the essay is that politics should not be conceived as that which is reduceable to the state or its laws. The political emergences also in the social domain and in the realms of values, social assets, and the sensibilities of horizontal relations. Hence, while I recognize that the state is, in our contemporary moment, the main organizer of politics, we need to be cautious not to see the politics of the social as a mere extension of the state. The view that the political substance of society always emanates from "the state" obfuscates the political content of social relations, norms, values, and social assets. Therefore, the politics of the social should not be seen as the "social" manifestation of the state. Moreover, despite my insistence on the value and political efficacy of ርሕራሐ *(reḥerāhé)*, I am not claiming here that this is the only and most important social and cultural resource in our midst for reimagining a new political order in Ethiopia. It is just one resource, presumably among many, at our disposal that can be used to reconceptualise the political.

4. ርሕራሐ *(reḥerāhé)* and "National Reconciliation" as *National Forgiveness*?

By way of conclusion, I would like to pose the question of whether radical compassion could be seen as one of the ways in which we can lay ground for the process of national reconciliation to occur and build a new political order in Ethiopia. A public practice of mutual aid through an act of radical compassion could perhaps involve "reconciliation" to *heal* communities devastated by various forms of violence (political, economic, and cultural). Reconciliation, or some would say "forgiveness," could, through mutual acknowledgement of pain and suffering, be crucial to move forward or at least towards a more just and equal society.

For reconciliation to occur, ርሕራሐ *(reḥerāhé)* needs to be used to deal with past injustices and lessen the weight and tyranny of our history. Not only would burying

past wrongs perpetuate old injustices, but also their un-acknowledgement and misrecognition can breed a politics of resentment that can spill over into our present and our future. ርሕራሄ *(reḥerāhé)* could perhaps have a place to "release" this polity and its populations from political and social hostility and the "wearisome sequence" of violence that past wrongs could generate in the future. As a virtue it has affinities with "forgiveness;" perhaps ርሕራሄ *(reḥerāhé)* could be a valuable asset to address historical injustices that arise from the predicaments of past actions. As Hannah Arendt, who lived through the rise of a genocidal Nazi regime, instructs, the "irreversibility" of past action imprisons human beings and polities alike in a cycle of "misdeed." She notes that it is only through the act of forgiveness that both the doer and the sufferer are "released" from the violence and the quandary that past actions produce.[54] She suggests that unless we strive to acknowledge and address past wrongs, we might find ourselves yet again haunted by the destructive fury of their future lives. Despite the methodological individualism of Arendt's discussion of forgiveness, which renders it inadequate to use in the social and political domain, the notion of forgiveness as a public practice that seeks to substantively deal with past wrongs can

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[54] See Arendt, *supra* note 31, on the "Irreversibility and the Power to Forgive" (236-43). She says, "trespassing is an everyday occurrence which is in the very nature of action's constant establishment of new relationships within a web of relations, and it needs forgiving, dismissing, in order to make it possible for life to go on by constantly releasing men from what they have done ... Only through this constant mutual release from what they do can men remain free agents, only by constant willingness to change their minds and start again can they be trusted with so great a power as that to begin something new. In this respect, forgiveness is the exact opposite of vengeance, which acts in the form of re-acting against an original trespassing, whereby far from putting an end to the consequences of the first misdeed, everybody remains bound to the process, permitting the chain reaction contained in every action to take its unhindered course. In contrast to revenge, which is the natural, automatic reaction to transgression and which because of the irreversibility of the action process can be expected and even calculated, the act of forgiving can never be predicted; it is the only reaction that acts in an unexpected way and thus retains, though being a reaction, something of the original character of action. Forgiving, in other words, is the only reaction which does not merely re-act but acts anew and unexpectedly, unconditioned by the act which provoked it and therefore freeing from its consequences both the one who forgives and the one who is forgiven (*Ibid.,* 240-241). The same author on the consequences of human action: "Without being forgiven, released from the consequences of what we have done, our capacity to act would, as it were, be confined to one single deed from which we could never recover; we would remain the victims of its consequences forever, not unlike the sorcerer's apprentice who lacked the formula to break the spell" *(Ibid.,* 237 *).*

be a useful tool for national reconciliation, an aspiration that we in Ethiopia have been hearing about from the political opposition since the 1990s. Forgiveness in a social and political context could perhaps be conceived as an arrangement whereby reconciliation and "truth and justice" commissions may be held while institutional mechanisms to address the enduring consequences of past injustices are worked out as simultaneous processes. Moreover, it should be emphasized that forgiveness cannot and should not mean to forget in such a setting—that would be an oversimplified solution to a complex historical problem. This said, however, it must be underscored that calls for reconciliation that have been repeatedly advocated by the Ethiopian opposition, and which have been repeatedly rejected and ridiculed by those in power in this country, need to be heeded. Proposals for national reconciliation suggest there is a lot of interest and even faith in a negotiated political settlement through an all-encompassing process of transitional justice. Going forward, therefore, this insistence and advocacy must remain a key agenda to address the problem of past actions and past injustices and their real expressions in the dominant tendencies of the Ethiopian political system and society.

DISCUSSIONS

Dr. Mulugeta Mengist

I agree with you that as lawyers we focus on the marginal. For me law and the state are marginal; they are relevant only for the few in society. We can say that it is not the law but social assets such as compassion, that hold us, as a society, together. I appreciate the fact that you raised "radical compassion" as something that we can discuss. Yes, radical compassion is an action-oriented emotion. But the same is true for other types of emotion, such as fear. The kinds of actions it triggers are protective, taking the form of either fighting or fleeing the risk. "Compassion" as an emotion can be considered to be the opposite of fear, as it does not drive a person to run away but rather to engage with a view to alleviate the suffering of someone. I agree with your point regarding

radical compassion, but I also recommend you consider other emotions in the light of the issues being discussed.

Additionally, in order to ensure the efficacy of the deployment of emotions such as "radical compassion," we need to understand their triggers by examining their anatomy. Questions include: What drives compassion? Why are some compassionate while others are not? What makes the good Samaritan act the way they act while another person may be indifferent towards the same suffering? These need to be answered. There is political potential in "radical compassion;" but focusing on the triggers could help achieve the result desired from the deployment of "radical compassion" as well as strengthening the social foundations and social capital that make the state and laws effective.

Melhik Abebe

I appreciate the coining of the term ርሕራሄ *(reḥ erāhé)* as "radical compassion" because, unlike empathy, it implicates the person showing the compassion as an agent, rather than painting him as a bystander observing with pity. In relation to the point you made last, some of the challenges that I observe in the current state that Ethiopia is in pertain, for instance, to independent initiatives that raise funds to provide relief and other kinds of aid to affected people all over the country. In these cases we observe issues when determining who is the most vulnerable because this remains the basis for the distribution of the relief effort. Those providing the funds usually ask if there's government involvement because they may be afraid that their contribution will be abused or misused by the government. Or even if the government is not involved, they ask the identity of the people behind the initiative to raise funds as they are the ones who determine where the aid should go. The lack of support to some who desperately need the aid is a problem. For this reason, the idea of radical compassion suffers, and this is also evident in the fact that there are unmistakable differences between the generations of the 1970s and our own; our generation has different idea of who is mournable and who is not, however radical that may be. So, how do we tackle that given the realities of our generation vs. those of the 1970s?

Regarding the essence of or what constitutes "radical compassion," for me it is as simple as imagining and trying to advance a politics that addresses the pain and distress of the worst affected, the most marginalized, the least heard, and the most disadvantaged amongst us. In order to do so, we have to be as honest as we possibly can (as a nation) in determining who that is. I do not think certain people living in certain parts of the country or belonging to a certain class are represented equally or have their grievances heard and considered to be more vulnerable as others are because the method that we have been using to determine the ones deserving the relief first have been very self-serving and intellectually dishonest. If we can manage to address the pains of the worst affected and alleviate their burdens, in a way all of us will be saved. If you start only from where you are affected and disregard those who have it worse, it will just make the cycle continue and bring no true resolution to our problems.

Dr. Kalkidan Negash Obse

You mentioned the potential use of language as a sociopolitical asset for humanizing and democratizing the political arena. But I see risk in the use of these kinds of language as they could be used to normalize violence and foster authoritarian rule. In the past few years, we have seen increasing use of these kinds of language in governmental circles. For example, statements coming from the Prime Minister's Office or Daniel Kibret have employed words such as **መደመር** *(madamare)*, **ፍቅር** *(fāqere)*, **ይቅርታ** *(yeqeretā);* language that we normally hear within religious and social circles have now become government language. This poses a great risk. Are we not casting the pearl before the swine? Of course, I am not presenting a general critique of the use of such language as they are social assets when used in their appropriate settings, for instance in the arena of civil society. But to what extent should we push the use of such language particularly in politics? Government discourse has become a religious discourse. The government is using social and religious language. Yet, this did not prevent civil war or the occurrence of atrocities, including by government actors. The use of such kinds of illusive and emotive language by people who wield political power could be tantamount to casting our pearls before the swine.

Dr. Mohammed Dejen

At the risk of generalization, our world is suffering from lack of compassion, or as has been presented, "radical compassion." For persons to be able to show compassion, they have to feel the suffering of others, which you termed as "co-suffering." My belief is that the compassion we speak of must be propagated by other institutions: religious, customary, etc.—the institutions that shoulder the responsibility of fostering compassion within society. As postulated by John Locke, the role of the government is to protect the people through its laws and arms, not by promoting compassion. The government in Ethiopia is continuously making use of religious language, thereby promoting compassion while failing in its primary duty to protect the people as they are subjected to suffering caused by different actors. What will happen if compassion fails? Is it not the responsibility of the government to ensure the safety of its people instead of simply promoting radical compassion?

Dr. Semir Yusuf

I appreciate your presentation for several reasons. First, for its originality. Second, the idea is an important antidote for the increasingly materialized, transactionalized, and morally trivialized politics of the last couple of decades, and we clearly need this kind of addition to our language. Therefore, it is an interesting way of introducing a concept we had not seriously considered so far, at least in academic circles. Third, the idea could also be used to transcend communal divisions in our society if we recast this idea of ርሕራሄ *(reḥerāhé)*, or radical compassion, in a trans-ethic sense, as an attempt to build bonds across societal cleavages. It could fill a very important gap in our politics as well. Fourth, it empowers the social as a very important site of political action. Therefore, instead of concentrating on the state and what it does to society, sometimes we have to refocus our attention on societal values, attitudes, and activities, as sites of collective action, at times even against state policies.

That said, I have some concerns that would serve the purpose of developing the point you raised into full-fledged political concept. I have doubts about whether ርሕራሄ *(reḥerāhé)* could be a truly political concept; it is rather a moral, ethical, and social concept. In general, I have four points of concern regarding your proposal.

My first concern is, how can we make ርሕራሄ *(reḥerāhé)* a communal concept? It is essentially an individualistic concept as it is about the "individual person." Therefore, how can we change it from a personal concept to a concept that spurs communities into action? That link is not clearly established. And there are comparable concepts in social science, for instance, "grievance." According to Gerg Worth, grievance is generated when people are in relative depravation that spurs them into action. Another concept coined by Lupsha is "moral indignation," which is when people feel that such a sense of indignation that they are spurred into action, sometimes against the state. But a problem lies with these essentially personal concepts as they do not establish a link between the personal and the community. Here lies the problem of the collective action: how can you make sure there are no free riders in the process of mobilizing people to a certain goal? Because there are always rational thinkers or certain people who step back and wait for the result to come. So, how can we make sure that each and every one of us is involved in practicing radical compassion?

The second concern is, assuming that we have overcome our problem of collective action, how can it be used to influence state practice and praxis? That is the problem found by social movement theorists. Let's say that people are equipped with moral indignation and we have mobilized massive number of people—can they really influence the state or politics? Can they really overcome the repressive tactics of the state? Social movement theorists explain by saying social movements do not always easily succeed; they do so only when there is political opportunity available for them to succeed. Therefore, the movement of society or mobilization of people does not necessarily translate, in effect, into politically impactful desirable acts. Therefore, your "radical compassion" should also pass this test for it to become a truly political concept.

The third concern I have is, how can we overcome the moral/political dichotomy? However radical it is, ርሕራሄ *(reḥerāhé)* is immensely voluntary; it is based on my personal will to act on my ርሕራሄ *(reḥerāhé).* So, in order to give it a more predictable progression, we have to get it institutionalized. And this is the beginning of another problem, because if we institutionalize ርሕራሄ *(reḥerāhé),* will it be ርሕራሄ *(reḥerāhé)* after all? It will be corrupted. Here Alex Vukovich is relevant: he says that religion and

revolution are the same; their success is their failure. Because, when religion or revolution succeeds to the maximum, they capture state power, they get institutionalized; that is the beginning of their corruption and they deteriorate materially, they lose their spirituality or revolutionary appeal. This is the paradox of ርሕራሄ *(reḥerāhé)* as well; when it is a moral concept it is fantastic; but the moment it gets institutionalized, and we come to believe that it has influenced state policy, it immediately loses that moral quality that makes it most appealing. How can we avoid this?

Dr. Mulugeta Mengist interjected and asked Semir what he meant by institutionalizing.

Dr. Semir responded saying: by institutionalization I mean laws, regulations, state practices, and institutions; anything that shifts ርሕራሄ *(reḥerāhé)* from being a voluntary moral concept into a more predictable social concept backed by political institutions and legislative measures.

Dr. Mulugeta interjected again and said: but you cannot legislate love, you cannot legislate compassion, and when we say institution it is an altogether different thing, broader than the state, its laws and institutions.

Dr. Semir continued to explain that, for ርሕራሄ *(reḥerāhé)* to be predictable and influential in a society, it has to be institutionalized.

Taking it from being a lofty moral principle to a more predictable social concept that can influence politics is the goal. This may make ርሕራሄ *(reḥerāhé)* susceptible to political appropriation. And that appropriation could sometimes take an ugly form, because when states or regimes appropriate moral concepts they not only deprive the concepts of their moral values, but also use them for a totally different purpose. For instance, if ርሕራሄ *(reḥerāhé)* becomes a state policy it could cause distinction between those who have ርሕራሄ *(reḥerāhé)* and those who do not have it, which may result in the state empowering those who are radically compassionate, which basically means those who fall in line with state vision for society and certain ideological patterns.

Those who do not align themselves within these parameters are basically automatically labeled as people without ርሕራሔ *(reḥerāhé)*. So, the state becomes a labeling agent, describing those who have it and those who do not. And those labeled as not having ርሕራሔ *(reḥerāhé)* will become marginalized. So, the question is—how can we salvage this concept from being appropriated by the state so that it can be a full-fledged political concept.

Dr. Abadir M. Ibrahim

As Semir was concluding, I am imagining what Semeneh's replies to Semir's questions could be. I am thinking, standing on Semeneh's shoes but not necessarily expecting him to agree, that the plane of action proposed by Semeneh does not have to be statist—it does not have to be institutionalized into law since not all power comes from law and the state. It is also possible to imagine it in the plane of the social, i.e., institutionalization in the form of social movements or the development of cultural mores that may not need to be institutionalized—or not institutionalized in a formal way. This may not answer the question fully, but then, Semeneh could very well defer what happens after the success of radical compassion in the social or cultural spheres.

My question to Semeneh is: how can we bring such concepts as ርሕራሔ *(reḥerāhé)* into social action? I am thinking of how does something like ርሕራሔ *(reḥerāhé)* gain the momentum it needs to improve how we do politics? The historical examples you raised were excellent, but can we bring that to contemporary discourse, and if so, how do we get from where we are now to what is being proposed? I will also add that, from the discussion we have had so far, I get the sense that power, politics, and law are intentionally left out of your focus. However, that does leave one feeling that we are not addressing the elephant in the room. You cannot discount the state as that would have you think of radical compassion developing in the social sphere while the political sphere does not intervene in this process through physical power or cooptation.

Dr. Berihun Adugna

I will say two things. First, what we call the politics of the social and the politics of the state is actually a constitutional description of how the state operates in many countries, including ours. I do not even consider it as the social but as the constitutional. So, the state has the social wing, what we call politics of the social, and then we have the state and its institutions. The state functions within these two systems, and, to that extent, I feel that you accurately captured what has been going on. Second, the politics of the state is based on consent, hence it builds on culture, national identity., etc., but at the same time, it departs from it so that politics can be coherent and workable. So, because it is based on consent, there are many possibilities there. And the politics of the social as you present them seem to be about culture. It has an idea of institutions and politics based on some cultural resources; it is reactive and responsive to what is going on in the political field. But it seems to lack tools and systems to reject some part of it. Many African countries tried it, and it does not seem to work, partly because of the problems many of the speakers here mentioned. On the other hand, I do not see a problem in the transformation of compassion; the problem is who will transform it and how?

Dr. Adem Kassie Abebe

Semeneh, what you did is bring forth the foundation where all our ideas and institutions should begin from. I have a couple of points to make. First, your presentation sees state and society as occupying parallel universes. In my understanding, the state is part of society. So, to that extent, at the risk of implying too much into what you said, we have to think about how to make the state serve society rather than talking about centering one over the other. Are we not trying to reimagine where the state should fit within society? My second point is, borrowing from Silicon Valley lingo, I see the state as the hardware and the policies in place as the software. For me compassion is most relevant when we try to build the software to be able to run within the structure that we built. Third, I wonder if we should try and understand things based on recognition rather than compassion. I am not sure if compassion originates from recognition or the other way round, but I think that when building it as a political framework considering recognition over grievance and indignation may

be good. Regarding institutionalization, I see that equality and rule of law concepts designed to treat everyone on equal footing can be considered as institutionalized manifestations of recognition and compassion. So, centering it on recognition can be something worth considering.

Overall, the fundamental challenge is that humans cooperate, but they also compete in every aspect of their lives. Therefore, how can we make radical compassion relevant for a world where we do not just cooperate but also compete? How can we use compassion to tame the tendency to compete more than to cooperate?

A final point: I am not clear if your idea of compassion has its origins in the conservative politics or Christian or Islamic thinking.

Intergroup Conflicts and the Role of Emotions: The Need for and Importance of Empathy in Filling the Trust Deficit and Resolving Ethiopia's Chronic Political Problems

Dr. Zelalem Mogessie Teferra

Abstract

Ethiopia's political landscape is characterized by extreme polarization. The country's history, national symbols, heroes, and heroines, as well as future direction, are all contested. Accompanying this is the glaring lack of trust among the various political actors. This is often seen obstructing the roads to dialogue, negotiations, and compromise. In recent years, it has also led to increased erosion of social cohesion, political crisis, inter-communal violence, and war. The trust deficit is partly caused by the unique sense of victimhood that the various ethnic and religious groups have developed over the years along with the self-assured belief that truth is always on their side. Each group advances its own story of historical and present suffering and the kind of 'truth' that is incontrovertible only to its members. Unfortunately, the complete reliance on one's own version of pain and suffering, disregarding similar sentiments and experiences of other groups, has only engendered resentment, ossified positions and increased chasms within the different segments of the society. At this moment, the country is at a point where the "truth" is devoid of its natural quality of objectivity and no reference to the "truth" or a fact by one group is palatable to the other. Consequently, there is a dire need for understanding and empathy to overcome the entrenched stubborn culture of persistent refusal to admit the possibility that the other side might sometimes have a point or have experienced emotional suffering deserving attention and empathy. This paper argues that if Ethiopia is to overcome its current challenges and move into a peaceful and prosperous future, there must be the understanding that politics is not necessarily dictated by facts or an objective truth. Facts alone, no matter how glaring and accurate, do not settle the country's political disputes. A genuine desire and attempt to address Ethiopia's political problems instead requires adding empathy to the political discourse and elite

engagements. Accordingly, political elites should first show some empathy towards their fellows from outside their religious or ethnic groups. This entails not necessarily doing what is factually right but doing what is emotionally correct, as not everything emotionally correct is factually or rationally correct and vice versa. National and international efforts to promote dialogue, peace, and democracy in the country should therefore involve initiatives that aim to create understanding and empathy among the diverging groups. Empathy appeals to the inner soul and taps into both human malleability and individuals' ability to understand the emotions of others without necessarily having to share those feelings. In polarized societies, empathetic gestures take on a symbolic value and healing power by giving recognition to the fact that each group has its own untold and unacknowledged pain and suffering.

Introduction

Ethiopia once again finds itself at crossroads and its people caught in the crossfire of war and inter-communal violence. The internecine civil war and the ethnic and religious violence happening in the different parts of the country have significantly affected every aspect of human life. In the last four years alone, tens of thousands (or more) have died, millions have been displaced, the country's international standing is severely weakened, national security is threatened, the economy is in shambles, and social cohesion is at an all-time low. The elites of the country are also divided, and the political scene is extremely polarized along ethnic and religious lines. Some of the root causes for this pathetic reality can be attributed to recent events but most others go back to decades and perhaps centuries, having left traces in the country's early state formation; of course, this is not so different from the way other states around the world carried out their state formation. At the moment, there is hardly anything in Ethiopia that is undisputed, be it the country's history, national symbols, heroes and heroines, or even what should its future path look like. As a result, not only is Ethiopia now at this difficult juncture where it has lost peace with itself as well as its collective national vision, but also it appears to have let the past take hostage both its present and its future.

Many, including in the international community, are now calling for national dialogue, new negotiated political dispensations, and a total change of course to turn the country away from the precipice. The call also seems to have gained traction with the recent establishment of a national dialogue commission by the government.[1] All the same, there is a serious lack of trust among the elites such that the prospect of any fruitful dialogue looks very bleak. Indeed, some of the prominent political parties and figures have openly challenged the legitimacy of the Commission citing a lack of broad-based consultation, transparency, and inclusiveness in the process of its creation and the appointment of its Commissioners.[2] The government has also been ambivalent as to who will partake in the national dialogue.[3] Despite the recent lull, the civil war in the north has still not been resolved and there is fear that it might reignite sooner or later. There is also generally a huge trust deficit between the different political groups and actors, which simply means that the possibility of complete cessation of hostilities followed by negotiations and a peaceful settlement is not very promising.

The trust deficit is occasioned by the unique sense of victimhood that the various ethnic and religious groups have developed over the years, along with the self-

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[1] The Commission is established by virtue of National Dialogue Commission Establishment Proclamation No. 1265/2021

[2] *Ethiopian Political Parties Joint Council request Parliament to temporarily halt National Dialogue commissioners' selection, resume process in inclusive, trustworthy manner*, Addis Standard, February 14, 2022, https://addisstandard.com/news-ethiopian-political-parties-joint-council-request-parliament-to-temporarily-halt-national-dialogue-commissioners-selection-resume-process-in-inclusive-trustworthy-manner/; See also *OFC, ONLF say Dialogue Commission process unrepresentative, not impartial; decline Parliament invitation today,* Addis Standard, February 4, 2022, https://addisstandard.com/newsalert-ofc-olf-and-onlf-say-dialogue-commission-process-unrepresentative-impartial-decline-parliament-invitation-today/.

[3] At some point, the government had indicated that there was a possibility that armed groups in the country such as the Tigrayan People Liberation Front (TPLF) and the Oromo Liberation Army (OLA) may be allowed to participate in the dialogue as long as they commit to disarming and respecting the constitutional order. This was however subsequently retracted by the ruling party. See *Ethiopia vows to table all agendas including referendum in national dialogue*, Anadolu Agency, (December 20, 2021), https://www.aa.com.tr/en/africa/-ethiopia-vows-to-table-all-agendas-including-referendum-in-national-dialogue/2452338; see also *Ethiopia's ruling party says planned 'inclusive national dialogue' will not include TPLF and OLA*, Globe News Net, February 17, 2022, https://globenewsnet.com/news/ethiopias-ruling-party-says-the-planned-inclusive-national-dialogue-will-not-include-tplf-and-ola/.

assured belief by every party that truth is always on their side. Each group advances its own "irrefutable" story of historical and current suffering. There is almost no group in Ethiopia today without some sense of alienation, marginalization, or victimhood. Such feelings of oppression and exclusion are often normally associated with or imputed to another group despite the fact that this group itself has its own claim of suffering. With these accompanying vindictive and virulent competing narratives, the "truth" effectively loses its quality of objectivity and at the moment, a "fact" that is invoked by one group, however obvious it might look, is unlikely to be accepted as such by the other.

Unfortunately, the complete reliance on prioritizing one's own version of pain and suffering, while at the same time ignoring similar sentiments and experiences of other groups, has only exacerbated group resentment, hardened entrenched positions, and widened divisions between the different elites and other segments of society. Consequently, there is a dire need for empathy to overcome the entrenched and stubborn culture of persistently refusing to admit the possibility that the other side might sometimes have a point or have experienced emotional suffering deserving of attention and compassion.

Predicated on the foregoing, this paper argues that if Ethiopia is to effectively address its current challenges and move to a peaceful and prosperous future, any step towards dialogue, negotiation or elite bargaining should begin from the fundamental realization that politics is not necessarily dictated by facts or even an objective truth. Facts alone, no matter how conspicuous and accurate, do not necessarily settle the country's chronic political disputes. The fulfilment of a genuine desire to resolve Ethiopia's political problems instead requires understanding the symbolic role and the healing power of empathy. Accordingly, political elites should show some empathy towards their fellows and seek to understand the other side by putting themselves in its shoes. It is therefore proposed that national and international efforts to promote dialogue, peace, and democracy in the country should involve initiatives that aim to create understanding and empathy among the diverging groups.

The paper first reviews existing literature on the relation between emotions and conflict, and briefly discusses how some discrete emotions may trigger, fuel, and sustain conflicts while others may contribute to the making of peace. Then, the content and notion of empathy and its role in conflict resolution is examined at a conceptual level. The paper subsequently identifies some areas around which Ethiopia's perennial political questions and unresolved national issues revolve and demonstrates how empathy could assist in addressing them. These areas are the country's history, national symbols, and the Constitution, along with the system of government that it has instituted. Thus far, these issues have been the most contentious obstacles impeding transition to democracy. The paper then proposes some strategies of intervention to induce the empathy of the diverse groups in the country with a view toward enhancing forward-looking engagements. The paper finally concludes by urging the various political and religious elites to realize that, in the absence of empathetic considerations and reciprocal peace gestures, the usual tendency to focus on winning arguments by professing the seamlessness of one's perspectives and uniqueness of suffering will not bring about sustainable peace for everyone.

1. Conflict and Emotions

Emotions play a central role in conflicts both at the individual or group level. Emotions may also be instrumental in facilitating and making or building peace. Recent studies in the field of social psychology have confirmed that emotions and conflicts have a direct relationship, with one causing, aggravating, or sustaining the other.[4]

Indeed, most individual and communal conflicts are often charged with emotions whether such conflicts are caused by ideological disagreements or competitions to

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[4]   See Eran Halperin, Keren Sharvit, and James J. Gross, *Emotion and Emotion Regulation in Intergroup Conflict: An Appraisal-Based Framework* (2010); D. Bar-Tal, E. Halperin, & J. de-Rivera, *Collective emotions in conflict situations: Societal implications*, 63 Journal of Social Issues 441 (2007); V. Cheung-Blunden, & B. Blunden, *The emotional construal of war: Anger, fear and other negative emotions* (2008), 14 Peace and Conflict – Journal of Peace Psychology 123 (2008).

gain control over resources or socioeconomic conditions. Conflicts by their very nature are emotion-eliciting stimuli but also are a function of negative emotions manifested in the form of hatred, anger, and resentment. Nonetheless, those emotions generating conflicts are not themselves "the guns that fire or the bombs that explode" but rather are the propelling forces that lead to the path of war and other forms of violence.[5]

Once conflicts break out, negative emotions may further prevent compromise and peacemaking in an ongoing or intense intractable conflicts. For example, several empirical studies conducted in the context of Israel-Palestine conflict have shown that different discrete emotions such as fear, hatred, and hope impacted the Israeli-Palestinian peace process.[6] One study carried out recently specifically revealed that fear was found to be the only emotional precursor of the opposition to taking risk in negotiations while hatred was the only emotion that reduced support for symbolic compromise and reconciliation.[7] Anger, on the other hand, was found to have engendered the tendency to blame Palestinians while concurrently and somehow counterintuitively, helping induce constructive stances such as support for taking risks in negotiations and openness to positive information about them.[8]

In multi-ethnic/racial and multi-religious societies, emotions play an integral role both at the start and over the course of conflicts particularly in shaping attitudes and behaviors during intergroup conflicts. At the start, emotions could easily transform individual disagreements into collective or group affairs and eventually make them take on clear ethnic, religious, or cultural lines, resulting in even further extreme polarization and violence. In such cases, individuals experience

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[5] Eran Halperin et al., *ibid.*

[6] *Ibid*; Eran Halperin, *Emotional Barriers to Peace: Negative Emotions and Public Opinion about the Peace Process in the Middle East*, 17 J. of Peace Psychology 22 (2011).

[7] *Ibid.*

[8] I. Maoz & C. McCauley, *Psychological Correlates of Support for Compromise: A Polling Study of Jewish-Israeli Attitudes Toward Solutions to The Israeli–Palestinian Conflict,* 26 Political Psychology, 791 (2005); E. Halperin, D. Bar-Tal, R. Nets-Zehngut, & E. Drori, *Fear and Hope in Conflict: Some Determinants in the Israeli-Jewish Society*, 14 J. of Peace Psychology 1 (2008).

every emotion, anger or victimhood, victory or defeat, in response to events that affect other members of a group with which they identify themselves.

Emotions may be grounded both in perception or fact. The perception could relate to interactions with the out-group or how that group is portrayed in the collective imagination of the competing group. Emotions may also be based on recollections of historical facts or relying on current events or on their interpretation by a group. When conflicts are associated with historical or ongoing intergroup oppressive/unequal relationships, emotions have the potential to alter a substantive incident into a motivation to respond to it in a particular manner.

Emotions could also be short-lived or may endure for a certain period of time in which it may evolve into sentiments, opinions, and prejudices toward or stereotypes about (the perceived) adversary group.

It should however be underscored that, although emotions and being emotional are often mistakenly understood as carrying exclusively negative connotations, they may also play a positive role in resolving conflicts and building peace. Emotions that have evolved or developed into hope, love, and compassion set the stage for dialogue, negotiations, and compromise by reducing the identifiable victim bias.[9] They also promote helping behavior toward suffering people, including those belonging to the rival group.[10] Similar to negative emotions, positive emotions are intertwined with each other and one may reinforce the other; for example, hope and compassion may generate love and love tends to make people more compassionate to the suffering of others.

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[9] See sub-section 2.4 below on limits to empathy.

[10] B. Fredrickson, et al., Open Hearts Build Lives: Positive Emotions, Induced Through Loving-Kindness Meditation, Build Consequential Personal Resources, 95 J. of Personality and Social Psychology 1045 (2008). Cohen & Insko, *War and Peace: Possible Approaches to Reducing Intergroup Conflict*, 3 Perspectives on Psychological Science 87 (2008).

2. Empathy as a Way of Building Peace

Empathy and empathy-related emotions such as compassion, love, hope and personal distress, are recognized to play a key role in social relations.[11] Empathy in particular is often considered to be a crucial factor in enhancing cooperation between interdependent individuals and creating good intergroup relations.[12] Empathetic gestures, even small ones, when they are displayed towards the perceived or actual adversary/competing out-group, also go far in changing social prejudice and generating reciprocal positive responses from the competing group.[13] Several meta-analytical statistical research analyses of multiple existing studies have demonstrated that empathy has a positive and negative correlation with prosocial and antisocial aggressive behavior, respectively.[14] For example, by exposing individuals to the suffering of others, it was possible to induce their empathy, and make them develop (the motivation for) altruistic behavior;

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[11] E. Halperin, *Emotions in conflict: Inhibitors and facilitators of peace making* (2015); see also Olga M. Klimecki, *The Role of Empathy and Compassion in Conflict Resolution*, 11 Emotion Review (2019).

[12] C. D. Batson & N. Y. Ahmad, (2009). *Using empathy to improve intergroup attitudes and relations* 3 Social Issues and Policy Review 141 (2009); J. F. Dovidio, et al., "Empathy and Intergroup relations" in M. Mikulincer & P. R. Shaver (eds.) *Prosocial motives, Emotions, and Behavior: The Better Angels of our Nature* 393 (2020); F. B. M. De Waal, *Putting the altruism back into altruism: The evolution of empathy*, 59 Annual Review of Psychology 279 (2008).

[13] For instance, on July 31, 2016, thousands of protestors in the Northern Amhara city of Gondar demonstrated against the government. Some carried placards showing support and empathy to the Oromo youth who had been protesting for serval months and against whom a brutal crackdown was carried out by the government. This showed improved intergroup relations between the Amharas and Oromos and subsequently played a significant role in forcing the ruling party to introduce reforms, paving the way for the appointment of Prime Minister Abiy Ahmed, who is from the Oromo ethnic group, to the premiership.

[14] Eisenberg, N., & Miller, P. A., The relation of empathy to prosocial and related (1987), *Psychological Bulletin*, 101(1), 91–119, Miller, P. A., & Eisenberg, N, "The relation of empathy to aggressive and externalizing/antisocial behavior" (1988) *Psychological Bulletin, 103*(3), 324–344. See also other more recent studies, including K. Jörkqvist, K. Österman, & A. Kaukiainen, *Social intelligence - empathy = aggression?* 5.2 *Aggression and Violent Behavior* 191 (2000). Dovidio et al, *supra* note 12.

furthermore, it was observed that the more they empathized, the more they tended to assist others who sought their help.[15]

If indeed empathy has such a significant role in influencing social behavior and individual and intergroup relations, the obvious question is: what does empathy mean and how is it different from other interrelated notions such as sympathy, compassion, or even personal distress?

2.1. Definition

The term has its vernacular provenance in the Greek language and is said to be derived from the word "*empatheia*" meaning "physical affection or passion", which itself originates from another Greek word, *pathos*, meaning "passion" or "suffering".[16] However, despite the fact that it has been a subject of extensive research—in philosophy, psychology, cognitive neuroscience, social work, sociology, etc.—and that there have been attempts to define empathy, there is hitherto no single, unanimously agreed-upon, comprehensive definition of the notion. Different individuals define it differently. For example, McLaren considers empathy to be a skill and defines it as follows:

> ***Empathy*** *is a social and emotional skill that helps us feel and understand the emotions, circumstances, intentions, thoughts, and needs of others, such that we can offer sensitive, perceptive, and appropriate communication and support … [it] includes a capacity to help others.*[17]

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[15]   C. D. Batson, B. D. Duncan, P. Ackerman, T. Buckley, & K. Birch, *Is empathic emotion a source of altruistic motivation?*, 40.2 Journal of Personality and Social Psychology 290 (1981)*,* O. M. Klimecki, S. V. Mayer, A. Jusyte, J. Scheef, & M. Schönenberg, *Empathy promotes altruistic behavior in economic interactions*, 6 Sci Rep 1 (2016); see also S. V. Mayer, A, Jusyte, O. M. Klimecki-Lenz, & M. Schönenberg,   *Empathy and altruistic behavior in antisocial violent offenders with psychopathic traits*, 269 Psychiatry Research, 625 (2018).

[16]   The Free Online Palliative Care Dictionary. *Empathy*, https://pallipedia.org/empathy/.

[17]   Karla McLaren, *The Art of Empathy: A Complete Guide to Life's Most Essential Skill* 30 (2013).

On the other hand, Britannica Dictionary defines empathy as "the ability to imagine oneself in another's place and understand the other's feelings, desires, ideas, and actions." Similarly, Roman Krznaric defines empathy as "the art of stepping imaginatively into the shoes of another person, understanding their feelings and perspectives and using that understanding to guide your actions."[18] As such, empathy may be simply understood as an emotional exercise of projecting oneself in the shoes of others and understand their perspectives, feelings, or conditions.

Empathy is related to sympathy, and sometimes people use one to mean the other. However, empathy is considered to be different from sympathy, that is, "the expressions of … pity or feeling sorry for somebody—because these do not involve trying to understand the other person's emotions or point of view."[19] Yet, it should be pointed out that, although sympathy is an "other-oriented concern or compassion," it is "an emotional reaction that also is a consequence of apprehending another's state or condition."[20] Empathy and sympathy are nonetheless clearly distinct from self-oriented feelings of personal distress, including anxiety or feeling uncomfortable. Personal distress induces the desire to alleviate one's own adverse state or distress, while empathy and sympathy are believed to be associated with an altruistic motivation to alleviate others' distress or respond to the need of others.[21]

2.2. Why empathy? The benefits of empathy in conflict resolution

Why does empathy matter? As pointed out earlier, empathy can help reduce violence, promote mutual understanding and resolve conflicts. Given that empathy is the ability to recognize and understand the thoughts of another person,

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[18] Roman Krznaric, *Empathy: Why It Matters and How to Get It* (2014).

[19] *Ibid*.

[20] Nancy Eisenberg, *Empathy and Sympathy: A Brief Review of the Concepts and Empirical Literature*, 2:1 Anthrozoös: A Multidisciplinary Journal of the Interactions of People and Animals 15 (1988).

[21] *Ibid*; see also Daniel C. Batson, *Prosocial Motivation: Is It Ever Truly Altruistic? in Advances in Experimental Social Psychology* (1987).

it is one of the best ways to build peaceful communities, especially in diverse multi-ethnic and multi-religious societies. The need for empathy is also dictated by the realization that emotions play a significant role in conflicts.

In diverse societies, as was indicated earlier, conflicts often arise either from a history of uneven intergroup relationships, ongoing (perceived) dominance by one group or a too-readily accepted sense of victimhood. The sense of victimhood may be grounded in a fact or perception, but once it has developed, it makes each group view their circumstances as the fault of others, not the product of broad historical, social, economic, and political forces. A sense of victimhood also has the power to make members of a group consider the other to be the "enemy," a permanently evil character created with only the desire to harm or even eliminate them.

With this often comes the belief that the out-group cannot change and thus needs to be "educated" to stop its aggression against the in-group. Identity-based politics,[22] characterized by resentment and the desire to avenge the "oppressor" out-group, then takes the centre stage, thrives easily and the conflicts gradually run deep in the veins of each member of the in-group. Feelings eventually matter more than the truth; perceptions become facts and consequently, emotions become the default compass to guide individual and group actions.

It is at this point where empathy, more than any reference to facts or the truth, is needed. As it is rightly pointed out, "Knowledge may influence decision-making, but it is emotion that truly changes behavior."[23] Empathy is a powerful tool for engaging people's emotions, healing their collective pain, opening their hearts to try to see the other side, and ultimately for preparing them to choose the path of peace over violence.

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[22]   Recent studies in the field revealed that social identity shapes neural responses to intergroup competition and harm. See M. Cikara, M. Botvinick, S. T. Fiske, *Us versus them: Social identity shapes neural responses to intergroup competition and harm* 22 Psychological Science 306 (2011).

[23]   Mary Gordon, *Roots of Empathy: Changing the World Child by Child* 47 (2009).

Empathy has some particular benefits and advantages that are crucial to resolving conflicts. First of all, despite differences in degree, empathy is an emotional treasure or resource found in every human being and can be easily tapped into to make people compassionate and amenable to compromise. It is inherent in human nature that the capacity to empathize exists in all human beings from young to old age. As Gordon succinctly put it:

> Nature is on our side in creating strong, empathic societies. We are born with the capacity for empathy. An ability to recognize emotions transcends race, culture, nationality, social class, and age.[24]

Accordingly, empathy is generally closer than knowledge to human nature among all members and sections of a society; educated/uneducated, men/women, young/elderly, religious/atheist, etc.—all have the ability to empathize with others.

Empathy also creates conditions for transitional justice by making individuals feel guilt for the wrongs which they have committed on others. It encourages them to acknowledge in-group responsibility and develop the willingness to conceive of new approaches such as negotiating with the enemy and making compromises. In this connection, studies conducted in Bosnia and Herzegovina with respect to the Srebrenica Genocide and the Israeli-Palestinians conflicts revealed that admission of in-group guilt can motivate group members to take actions aimed at rectifying past wrongdoings on the part of their in-group and show inclination to support or endorse reparation policies designed to assist out-group victims affected by injustice.[25]

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[24] *Ibid.*, 22.

[25] E. Halperin & D. Schwartz, *Emotions in Conflict Resolution and Post-Conflict Reconciliation* 87 *Les Cahiers Internationaux de Psychologie Sociale* 423 (2010), R. Brown & S. Cehajic, *Dealing with The Past and Facing The Future: Mediators of the Effects of Collective Guilt and Shame in Bosnia and Herzegovina* 38 European Journal of Social Psychology (2008); See also N. R. Branscombe, "A Social Psychological Process Perspective on Collective Guilt" in N. R. Branscombe & B. Doosje (eds.) *Collective Guilt: International Perspectives* 320 (2004).

Furthermore, empathy is a forward-looking exercise in the sense that it allows people to deal with the past and face the future.[26] As opposed to hatred, the emotion that leaves parties fixed on past assumptions about the adversary out-group as evil and incapable of real change, empathy creates hope and makes people imagine a harmonious future different from and likely better than the past. It also creates societal expectation and aspirations around a positive attainable goal.

Empathy also helps promote cognitive appraisal and regulate emotions,[27] including by inhibiting aggressive responses to provocations.[28] Cognitive appraisal gives rise to understanding, compassion and forgiveness—important assets for fostering intergroup relations and building sustainable peace.

Furthermore, empathy tames negative emotions, limits their role in shaping or influencing opinions and positions, and guides a group to see the truth in the eyes of the adversary.

2.3. Tapping empathy to resolve Ethiopia's perennial national issues

Ethiopians often consider themselves to be very empathetic, and indeed the daily life of ordinary people has long exhibited this collective virtue. However, since the middle of the 20th century, and more so in the last three decades, Ethiopia's politics has suffered from a serious deficit of empathy. A sense of victimhood and resentment dominates the political discourse, and elites compete with each other to win arguments and claim entitlement to power on the basis of who suffered most. Devoid of humility and any sense of empathy towards others, some of the influential political elites are often heard speaking of the "irrefutable correctness" of their own stories and the seamlessness of their historical narratives, painting

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[26] Halperin & Schwartz, *ibid.*

[27] See sub-section 3.3 below on emotion regulation.

[28] P. Cernadas Curotto, D. Sander, E. Halperin, & O. Klimecki, *The Impact of Compassion and Emotion Regulation Training on Conflict Resolution* (2018).

themselves or their group as uniquely victimized and oppressed by others. It is not unusual to see many of them claiming, with a blend of self-assured omniscience, to have exclusive ownership over knowledge and the fountain of truth. They assert authority for their claim of victimhood or their past contributions to the country's nation-building, or seek to substantiate the correctness of their preferred ideological leanings from their selectively picked sources, sources which possess "the truth"—a truth which appears "incontrovertible'" only to them.

As a result, division, violence, and polarization have become almost the defining features of Ethiopian politics. This claim to having the absolute truth on one's side, coupled with an embedded societal culture that sees compromise as weakness, is seen to have made peace elusive. The prospect of dialogue, negotiations, and broad-based elite bargain is all the more impeded by a complex history of interethnic and interreligious relationships and accompanying oppressed-oppressor narratives.

Unfortunately, some of the country's political or historical contestations cannot be settled by a mere reference to "facts" or by advancing a self-serving narrative that gives parties ownership over the truth of the past or present. In the absence of empathetic gestures—without the willingness to put oneself in the shoes of others and an attempt to understand the truth of the other side, any effort to ensure inclusiveness, including building a nation on the foundation of rule of law and bringing about sustainable peace will remain a distant dream.

Against this background, three areas of contestation or perennial national questions are identified in the next section. In the country's political discourses, these issues have consistently proved to be contentious and not amenable to resolution by adducing "evidence" or "facts." Each ethnic/religious group maintains its own version of the truth on these issues and as such, their resolution very much depends on Ethiopians' empathetic engagements with each other. This begins with the realizations that diversity is the inbuilt character of Ethiopia and that different groups in the country have differing perspectives and interpretations of national identity, or the questions of being an Ethiopian and what Ethiopia is.

It is also important to point out that every group in the country has painful experiences deserving the empathy of the others. It does not matter whether the current generation or the forefathers are the causes of each other's hurt—what matters most in this is that all groups have developed pain and a sense of having been hurt—for some a deeply-engrained one that merits empathy. It should be reiterated that empathy is not necessarily about reason or fact; rather it is about having the personal quality of understanding, valuing, and, if possible, sharing others' emotional pain, whatever its foundation or source is—understanding the foundation or the source is particularly critical for a proper engagement.

In a situation where every aspect of a nation's project and symbol, ranging from the color of the flag to its heroes and heroines, historical facts and narratives, and its governance structure, is disputed, empathy, when combined with honesty, heals wounds, narrows rifts, and overcomes societal divisions. As such, a genuine desire and attempt to address the country's political quagmire requires each group in the country to understand the symbolic value and the healing power of a simple empathetic gesture. As various studies have demonstrated in other countries, empathy has the capacity to enable different groups to have the courage to acknowledge the pains of others, regardless of whether they are grounded in a fact or perception, and look beyond the strictures of their own ethnic and religious horizons. Such exercises may not necessarily entail doing what is rationally right but what would be emotionally correct for and expected by others. Needless to say, not everything emotionally right is factually or rationally correct and vice versa.

1) History: the legacy of past leaders

One of the most controversial national issues in Ethiopia is the country's history. While some sections of society tend to portray or capitalize on a glorious past, some others describe the country's past as nothing but a history of oppression and violence.[29] The difference is so stark that one may be tempted to think that what

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[29] The existing Constitution of the country itself starts with a controversial preamble which describes one of its main purported goals as the creation of common destiny "by *rectifying*

each group considers Ethiopian history looks like that of two distinct countries, not one.

At the centre of the controversy is found the legacies of past leaders and administrations, particularly the kings and regimes of the last two centuries. For example, ethnonationalist groups and individuals from the South (Oromos, Kembatas, Sidamas) see Ethiopia's history as an oppressive past where the northern Semitic groups of Amhara and Tigray dominated culturally, politically, and economically, and subjugated the South. On the other hand, some others in the predominantly lowland regions of the country (ethnic Somalis, Gumuzus, Shinashas, Agnuak, etc.) perceive Ethiopian history as an exclusionary world of the highlanders with which they cannot identify themselves. For the peripheries, Ethiopian history is exclusively that of the center, having nothing in it that they consider their own.

The different religious groups have also their own understanding of the country's history. The (Orthodox) Christians see the past as essentially a time when the country was a land of justice, which peacefully welcomed and hosted Islam but whose civilization was later destroyed by the Muslims. On the contrary, the Muslims, citing the strong influence of the Church in imperial regimes, claim that it was instead a time when they were made second-class citizens in their own country.

As a result of these contestations over its history, Ethiopia has still not found what its people could call the "Father(s) of the Nation". The legacy of all its leaders is disputed and it is almost impossible to find a single leader who is now accepted by all or a majority of the various ethnic and religious groups as "their own." All of the country's past leaders have been controversial but the most controversial of all are the late Prime Minister Meles Zenawi and King Menelik II, not surprisingly because of their great influence and role in giving the country its current shape. Both have their own ardent social bases, who with messianic zeal view them as the

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historically unjust relationships and by further promoting our shared interests" (emphasis added). Preamble, Constitution of the Federal Democratic Republic of Ethiopia, 1995.

best leaders of all time,[30] while other groups see Menelik as a colonialist/ imperialist[31] and Meles as a brutal dictator.

In view of this ostensibly irreconcilable disparity in understanding the past, including the legacies of Ethiopia's past leaders, it has currently become extremely difficult to imagine the possibility of reaching consensus on even some part of the shared history of the country. No matter how much one group is able to produce piles of evidence or fact, or to firmly assert that truth is on its side, it is unlikely that it will succeed in convincing others on the accuracy of its own understanding of the past or disproving that of others'. Questions over whether Menelik was anti-imperialist or oppressive King or whether Meles was a visionary or despotic leader will definitely be non-starters in the kind of forward-looking political discourse that Ethiopia badly needs. They not only have the potential to harden the already polarized positions but even more, they reduce the appetite for intergroup engagement.

However, what would the situation be like if the different groups could empathize towards each other? The first outcome would be that each group realizes that Ethiopia's history, like the history of many other countries, is contentious and that multiple narratives are naturally expected.[32] Empathy will prompt each group to understand the reasons behind such divergent views on the same subject matter and learn to know and tolerate the perspectives of the perceived rival out-group. Empathy will also enable members of the different groups to develop sensitivity

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[30] Paulos Milkias & Getachew Metaferia, *The Battle of Adwa: Reflections on Ethiopia's Historic Victory Against European Colonialism* (2005); Hailay Gebretsadik Shifare, *Transformational Leadership (Lesson from Meles Zenawi): The Lesson of Exemplary Model for Developmental State Governance* 7.2 International Journal of Advanced Research in Management and Social Sciences 261 (2018).

[31] See Abbas H. Gnamo, *Conquest and Resistance in the Ethiopian Empire, 1880-1974: The Case of the Arsi Oromo* (2014).

[32] For example, considering the moral cause underlying the American Civil War, one may be tempted to think that it is not controversial, but it is estimated that more than 70,000 books containing different and, at times, contradictory narratives have been written exclusively on the War. In 2001, Jonathan Sarna estimated that over 50,000 books had already appeared, with 1,500 more appearing annually (89.3 *American Jewish History* 335 [2001]).

towards the feeling of the other groups that they consider as their historical adversaries.

For instance, with some addition of empathy, Oromo nationalists will allow themselves to realize that they would potentially have the same views of their Amhara counterparts if they were members of the Amhara people and experienced the same path of life their counterparts have. Similarly, Amhara nationalists will understand that their veneration of King Menelik triggers a painful memory of oppression in their Oromo counterparts and thus desist from censuring the latter for criticizing or showing an inveterate hatred towards Menelik. Similarly, Amharas and Oromos will refrain from demonizing Meles Zenawi in view of how much that will negatively affect their Tigrayan fellows. The adoption of empathy in this exercise creates the understanding that no leader is uncontroversial in any country and, as such, contending groups need to focus more on the positive collective achievements of the people and leaders, such as, for example, the Victory of Adwa instead of, Menelik and the Grand Ethiopian Renaissance Dam (GERD) instead of Meles Zenawi. In other words, empathy will permit groups to not let the future be a prisoner of the past.

Yet again, it should be emphasized that politics or any other intergroup interaction is not only dictated by one's own truth or even by citing an "objective" truth. In the absence of empathy, the ownership of truth, even one that is objectively verifiable, will not necessarily resolve differences on historical facts or incidents. Facts—no matter how glaring and accurate—alone cannot help settle disagreements on the history of the country or even on what it means to be an Ethiopian.

2) National symbols: national flag

National symbols, and in particular national flags, are a subject of great controversy in Ethiopia's political landscape.[33] In recent years, the issue of the flag

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[33] Abdi Latif Dahir, "Ethiopia's flag protests show a nation fighting to become united," Quartz Africa, (September 17, 2018), https://qz.com/africa/1392779/ethiopias-abiy-ahmed-calls-for-calm-after-flag-protests/

has also become a cause of recurring intercommunal skirmishes and violence.[34] The conspicuous absence of consensus on the national flag is apparent in the frequency with which the national flag has changed over time. In the last century alone, Ethiopia has had over 10 flags of different colours and sizes. With the adoption of the federal structure, the country now has dozens of regional flags while the opposition also maintains its own flags. Changing flags seems to be the ordained norm that all previous governments have, upon assuming power, taken as a priority that must strictly be implemented. Instead of working to create consensus, some of them even used the law to ban the use of other competing flags.[35]

In fact, though they change the size and designs of prior flags, most of the contested flags in the country share similar colours. What thus appears to be the real cause of the dispute is the perceived thinking/idea or belief behind those flags. Oromo and Tigrayan ethnonationalists often see the old flag as a symbol of oppression and a reminder of subjugation while the Amharas and some others in the South see it as a symbol of freedom, under which Ethiopia defended itself from foreign invaders, sacrificing the lives of hundreds of thousands of its men and women. Both beliefs are deeply engrained in the collective soul of each group such that it is inconceivable that any would adopt the other's flag to serve as a common symbol for all.

However, empathy could come in here to play its role by bridging the gap and inducing compromise from the different sides. By creating reciprocal

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[34] In the last Epiphany Celebration held in January 2022, it was reported that at least three individuals were killed by police after clashes erupted between Police and Orthodox Christians who carried the old flag of Ethiopia during the processions. See "Oromia police killed at least three Orthodox church followers during epiphany celebration in Addis Ababa" Borkena, (January 21, 2022), https://borkena.com/2022/01/21/ethiopia-oromia-police-killed-at-least-three-orthodox-church-followers/

[35] For example, the Ethiopian Peoples' Revolutionary Democratic Front government enacted the Flag Proclamation No. 654/2009, which is still in force, by which it banned the use of the old flag without the national emblem, a pentagram on a blue disc, superimposed in the middle. This was enforced with a threat of criminal sanction against those who breach the ban. See Article 23 of the Flag Proclamation No. 654/2009, Federal Negarit Gazeta No. 58, August 28, 2009.

understanding as to why each group has a particular love or detestation for the different flags, it promotes tolerance among the groups and encourages them to be open to the adoption of a common symbol which allows each to see its past as well envision its own and the country's future.

3) The Constitution and state structure: federal *vs.* unitary

In 1994, Ethiopia officially introduced the ethnic-based federal system under which each ethnic group is given a "national homeland" with its accompanying right to self-determination that, where necessary, may include the right to secession.[36] Ever since such system was adopted, the country's governance structure as well as the Constitution itself have been a bone of contention between the different groups.

In this regard, the political landscape is perceived to be a battleground for the fight between those seeking a centralized system of government and those who prefer a decentralized administration that provides greater autonomy to the member federal units. The recent war between the Federal Government and Tigray Regional Administration is also framed by many as a "clash of visions" between "unitarist" and "federalist" forces.[37] Whether the war is indeed a clash of visions between those who are for autonomy and those for a more centralized system, or rather a clash between different forces to control the center is debatable and could be a subject of further research.[38]

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[36] See Articles 39, 46 and 47 of the Constitution of the Federal Democratic Republic of Ethiopia (1994).

[37] See for example *A Clash of Narratives: National Identity and Violent Conflict in Ethiopia*, Globalvoice, (May 2021), <https://globalvoices.org/wp-content/uploads/2021/05/Ethiopia-National-Identity-Observatory-2021.pdf; Teferi Mergo, *The War in Tigray Is a Fight Over Ethiopia's Past—and Future*, Foreign Policy, December 18, 2020, Awol Allo, *How Abiy Ahmed's Ethiopia-first nationalism led to civil war*, Al Jazeera, November 25, 2020.

[38] In the opinion of this author, the "unitarist vs. federalist" discourse in Ethiopia has nothing much to do with the actual desire of the groups to see a more centralized or decentralized form of government. In fact, the fight among the various groups in both camps is more for the center than periphery or their own self-administration. For example, TPLF identifies itself as a federalist force but its 27 years in power were marked by strong central government. Similarly, Oromo

Nonetheless, it is self-evident that there is no common consensus over the existing system of government among the different sections of the Ethiopian society. For those who support the *status quo*, Oromos, Sidamas, etc., the federal system is a manifestation of the end of their past cultural and political marginalization and an affirmation of their natural right to determine their own future destiny. On the contrary, some other groups, particularly, the Amharas, Gurages, and urban elites, believe that the existing federal system made them aliens and second-class citizens in their own country by usurping their full rights of citizenship in places outside their purported ethnic homeland.

Clearly, both *pro* and *against* camps have legitimate reasons for supporting or fulminating against the Constitution and the existing federal system that it has instituted. Obviously, the disagreement cannot be settled by the sword of truth that each claim to have, nor one by outrightly rejecting the other's preference for this or another alternative system. Again, the complex history of the country has put its weight on each group's choice of governance structure. It is very doubtful that bringing into the discourse the objective advantages and disadvantages of the different systems of government alone will convince either side to accept the other's preference.

What would instead help them move from the "self-regard" default preference to consideration of others' concerns is the empathy each could display toward the out-group's grievances with respect to the in-group's preferred system of government. If the different groups are empathetic towards each other, it will be easier to design a system where both self and shared rule, multinationalism and civic nationalism, majority rule and minority rights, and the full respect for religious rights and secular values, could be simultaneously materialized without

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nationalists have, for the most part, expressed their favor for a decentralized system not necessarily because they have a particular love for it but rather because they believe that Oromia is the center. In this case decentralization means having a dominant role relationship to the center without much contestation from other groups. In sum, Ethiopian politics is not a fight for self-autonomy or centralization as such but rather essentially it is a contestation to control the center. Federalist vs. unitarist narrative is just used as ladders or means to control the power that resides at the center, namely in Addis, the capital city, where the country's economic, social, and political power is concentrated.

the need for one to eliminate the other. The ability of each group to evoke the humanity of its members, take the perspective of the other group, and identify commonalities in the shared feelings of pain and suffering will enable them to imagine the possibility of a third option in between the federal and unitary or territorial (geographical) federalism systems.

2.4. The limits of empathy

As much as it could have a significant role in improving individual and intergroup relations, resolving intercommunal conflicts, and building a lasting peace, it is necessary to note that empathy is neither a panacea to resolve each and every conflict nor is in itself capable of responding to all the intricacies of a particular conflict. While initiating pro-empathy interventions, one should thus bear in mind the natural limits of empathy.

The first limit is that empathy does not fully respond to demands for accountability for serious crimes or past or present injustice. Whereas empathy could facilitate some aspects of transitional justice such as truth and reconciliation, it does not offer the full benefits of the criminal justice system. Empathy-promoting programs should therefore be considered alongside other means of ensuring accountability for serious crimes and/or reparatory justice.

Second, empathy is time and context dependent, and thus it is important to identify the opportune moment when it is likely to be effective in resolving conflicts. In conflict resolution studies, this opportune moment is encapsulated by the notion of ripeness. This line of thinking suggests that adversaries must experience a mutually painful stalemate, albeit not necessarily in equal degree or for the same reasons, before they are nudged to pursue the path of negotiations and peace.[39] Similarly, empathy cannot be successful in a situation where there is no emotional ripeness, that is, where the prevailing collective emotions of rival groups must support the practical possibility of progress towards sustainable

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[39] William Zartman, "Ripeness: The Hurting Stalemate and Beyond" in Paul C. Stern and Daniel Druckman (eds.), *International Conflict Resolution After the Cold War* 225 (2000).

peace.[40] According to Halperin and Schwartz, "the presence of emotional ripeness exists when, with respect to collective emotions, the overriding long-term sentiments and non-affective factors are aligned with a predisposition to evoke cognitive appraisals in response to new or recollected events that give rise to emotions conducive to supporting constructive political attitudes and actions."[41]

The role of empathy may further be constrained by intergroup empathy bias and identifiable victim empathy. Studies have shown that individuals and groups are biased, being more empathetic towards members of their own groups in comparison with other groups, or towards single, specific, and identifiable persons while harboring reduced empathetic feelings towards a larger, vaguer group of people.[42] Exposure to the suffering, first-hand perspectives, and stories of members of the out-group is also a more effective way to evoke empathy compared to a general description of the suffering or story of the rival group.

3. What Can be Done to Exploit the Full Benefits of Empathy?

In the preceding sections, I have examined the relationship between emotions and conflict, the definition of empathy and its role in creating intergroup harmony and resolving conflicts. I have also shown how empathy could help address Ethiopia's contentious national issues and the potential inherent limits of empathy. In this section, an attempt is made to briefly highlight possible interventions that could maximize the benefits of empathy.

It should be stated from the outset that individuals empathize with others consciously—with full cognitive appraisal of the circumstances of others—or unconsciously—for example, in the form of interjection. In both cases, it is

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[40] See Eran Halperin and Drew E. Schwartz, *supra* note 25.

[41] *Ibid.*

[42] S. Lee & T. H. Feeley, *The Identifiable Victim Effect: A Meta-Analytic Review*, 11 *Social Influence*, 199 (2016); K. Jenni & G. Loewenstein, *Explaining the Identifiable Victim* Effect, 14 Journal of Risk and Uncertainty 235 (1997); A. Genevsky, D. Västfjäll, P. Slovic, & B. Knutson, *Neural Underpinnings of the Identifiable Victim Effect: Affect Shifts Preferences for Giving*, 33.43 The Journal of Neuroscience 17188 (2013).

possible to induce empathy through various mechanisms, which should be included in peacemaking/peacebuilding initiatives to promote empathetic engagements. Below, I will briefly discuss four of such mechanisms that existing psychosocial literature found to be effective in evoking empathy and fostering empathetic discourse in polarized, diverse societies.

3.1. Perspective taking exercises

Perspective taking is defined as "The ability to understand how a situation appears to another person and how that person is reacting cognitively and emotionally to the situation."[43] Various studies have shown that perspective taking exercises help combat intergroup racial bias and stereotypes and improve conflict resolution by triggering empathetic feelings.[44] Perspective taking involves the process of seeking to *understand the lived experiences and perceptions* of others by: *ideating*, that is, imagining what a situation/story means to the others; *hypothesizing*, or making solid hypotheses to validate and use to interact with the others; and finally *engaging* with them to understand and reassess our assumptions and adjust our outlooks.[45] This requires implementing initiatives that create common platforms for intergroup communication and dialogue. It should be recalled that "Empathy cannot [necessarily] be achieved through objective observation or detached inference, because that would indicate a lack of interpersonal connection and communication."[46] Communication is, hence, at the

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[43] H. Gehlbach, *A New Perspective on Perspective Taking: A Multidimensional Approach to Conceptualizing an Aptitude*, 16.3 Educational Psychology Review 207 (2004).

[44] See Margaret Shih, et al., *Perspective Taking: Reducing Prejudice Towards General Out-Groups and Specific Individuals*, 12.5 Group Processes & Intergroup Relations 565 (2009); Andrew R. Todd, et al., *Perspective Taking Combats Automatic Expressions of Racial Bias* (2011), 100.6 *Journal of Personality and Social Psychology* 1027 (2011); Valerie I. Sessa, *Using Perspective Taking to Manage Conflict and Affect in Teams*, 32 *The Journal of Applied Behavioural Science* 1 (1996); Inga J. Hoever, et al., *Fostering Team Creativity: Perspective Taking as Key to Unlocking Diversity's Potential*, 97 *Journal of Applied Psychology* 982 (2012).

[45] *Guide to Perspective Taking*, AMP Creative (last accessed September 7, 2022) https://ampcreative.com/guide-to-perspective-taking/

[46] Linda Roan, et. al, *Technical Report: Social Perspective Taking,* U.S. Army Research Institute for the Behavioral and Social Sciences (2009), 9, https://dash.harvard.edu/bitstream/handle/1/4556387/Gehlbach+2009+Social+Perspective+Taking.pdf;jsessionid=67C417E3C0F0FF62EE77CEF4F99DAF2D?sequence=1.

center of perspective taking, although firsthand experience or observation of the situation of the out-group is crucial.

In the Ethiopian context, perspective-taking and the resulting empathetic dialogue could be promoted by organizing inter-communal and inter-religious discussions. National volunteering services, joint retreats of representatives of different groups, cultural exchange and language learning programs, and story-telling initiatives are also instrumental in this regard.

3.2. Compassion training and increasing the motivation for intergroup empathy

Some studies have suggested that compassion training, loving kindness, and cultivating positive emotions regarding others all increase empathy and exert beneficial impacts on intergroup relations.[47] Despite the fact that empathy is generally activated by and associated with the imagination of unpleasant experiences of others, positive feelings are also considered to have the power of generating empathy.[48] In this vein, increasing positive emotions, even in the face of suffering, through compassion training is believed to serve a particularly useful role for strengthening compassion, empathy, and a readiness for resolution of intergroup conflicts. One proposal is to make compassion-positive norms among the in-group more salient or socially desirable.[49] In this regard, it is worth noting that Ethiopian society has several wonderful social values such as ይሉኝታ (*yeluñetā*) (selflessness and public self-consciousness),[50] generosity, tolerance, and

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[47] B. Fredrickson, et. al, *Open Hearts Build Lives: Positive Emotions, Induced Through Loving-Kindness Meditation, Build Consequential Personal Resources*, 95 Journal of Personality and Social Psychology, 1045 (2008). T. R. Cohen & C. A. Insko, *War and Peace: Possible Approaches to Reducing Intergroup Conflict*, 3 Perspectives on Psychological Science 87 (2008).

[48] *Ibid.*

[49] Klimecki, *supra* note 11, 11.

[50] ይሉኝታ (*yeluñetā*) does not have an English equivalent word but it is generally described as entailing self-restraint, consideration of others' feelings, or having an awareness of how one's actions are seen through other's eyes (*Rukya Hassen, Culture-Specific Semiotic Politeness Norms in the Multicultural Society of Ethiopia*, 7 Arts and Social Sciences Journal 3 [2016]; see

love of neighbors, which are found in the cultures and traditions of almost all groups in the country. The social capital attached to intergroup empathy and harmony is therefore readily available. What is apparently missing is the work of cultivating and amplifying these positive values in an organized way to shape public discourse in the political arena and combat intergroup stereotypes. This should accordingly be one of the priorities that must be considered in interventions that aim at helping the country heal and move to a harmonious future.

3.3. Emotion regulation and reappraisal

Another important strategy for inducing empathy and promoting intergroup relations, especially in the context of intractable conflicts, is to implement emotion regulation programs like cognitive reappraisal and expressive suppression. Cognitive appraisal denotes "the attempt to reinterpret an emotion-eliciting situation in a way that alters its meaning and changes its emotional impact," whereas expressive suppression is "the attempt to hide, inhibit or reduce ongoing emotion-expressive behavior."[51] Empathy evolves with cognitive skills and moral values, and the more individuals manage to regulate emotions through cognitive appraisals and expressive suppression, the better chance there is for meaningful intergroup dialogue, understanding, and empathy-based cooperation.

3.4. Reducing group entitativity

Intergroup conflicts are often fueled by entitativity, or "the extent to which a group or collective is considered by others to be a real entity having unity, coherence, and internal organization rather than a set of independent individuals."[52] It is a perception developed by a group that the rival out-group has structured

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also Nina Evason, "Ethiopian Culture Core Concepts," Cultural Atlas [2018] https://culturalatlas.sbs.com.au/ethiopian-culture/ethiopian-culture-core-concepts)

[51] Debora Cutuli, *Cognitive Reappraisal and Expressive Suppression Strategies Role in the Emotion Regulation: An Overview on their Modulatory Effects and Neural Correlates*, 8 Frontiers in Systems Neuroscience 1 (2014).

[52] APA Dictionary of Psychology. *Entitativity*. (Last accessed September 7, 2022).

cohesiveness and homogeneity and its members do things in a coordinated and organized way, including those purported to be directed against the interests of the in-group. In Ethiopia, for instance, it is not uncommon to see Oromos accusing Amharas and/or Tigrayans of conspiring to dominate them and vice versa; each group speaks about the other as a homogenous group relentlessly working to destroy or hurt them. This is despite the fact that there are competing forces within all these groups that are fighting against each other for dominance and power.

Entitativity blurs the line between peacemakers and spoilers of peace and everyone is perceived as one or part of a single enterprise. In a situation of intractable intergroup conflicts, entitativity is capable of sowing the seeds of suspicion, mistrust and animosity and could eventually be an obstacle to the creation of positive intergroup relations by peace-loving members of rival groups. As such, it limits intergroup cooperation and denies opportunities for moderate voices from each group to emerge and get a platform.

Reducing out-group entitativity is shown to have diminished intergroup empathy bias and facilitate intergroup interactions and compassions.[53] Changing the orientation of members of the in-group to view their counterparts in the out-group as individuals—fellow humans with their own distinct personality—has been found to promote forgiveness toward historical injustice perpetrators of an out-group.[54]

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[53] M. Cikara, et. al, *Their Pain Gives Us Pleasure: How Intergroup Dynamics Shape Empathic Failures and Counter-Empathic Responses* (2014), 55 Journal of Experimental Social Psychology 110 (2014); see also Klimecki, *supra* note 11, 12.

[54] In one study, for example, it was observed that among Jewish North Americans, human-level categorization of the harms done by Nazis to the Jews resulted in more positive responses toward Germans by decreasing the uniqueness of their past harmful actions toward the in-group. The more the criterion of the inclusiveness of categorization was enlarged, the greater the forgiveness was and the expectations that former out-group members should experience collective guilt were reduced compared with when categorization was at the intergroup level. See Michael J. A. Wohl & Nyla R. Branscombe, *Forgiveness and Collective Guilt Assignment to Historical Perpetrator Groups Depend on Level of Social Category Inclusiveness*" (2005), 88 Journal of Personality and Social Psychology, 288 (2005).

It is therefore important that compassion trainings or any other interventions designed to foster intergroup collaborations, build trust, and bridge differences in Ethiopia should include strategies to reduce entitativity among the different religious, ideological, or ethnic groups. This could be done by showing that there are also intra-group differences and divisions, and that the degree of group cohesiveness in the adversary out-group is not static. For instance, evidence-based compassion training aiming at reducing Amhara and Oromo group entitativity is expected to show that there are indeed intragroup competitions and differences within both the Amharas and the Oromos. In addition, training members of each group to see their counterparts in the other group as fellow Ethiopians or humans, by enlarging the standard of inclusiveness, is likely to encourage forgiveness for the past historical injustices that each claim to have suffered at the hands of the other.

Conclusions

Ethiopia finds itself at a difficult juncture where its people are suffering from a brutal civil war, intercommunal violence, poverty, and other social and economic challenges. Although several factors contribute to this, the failure of its elites to resolve their differences peacefully could be identified as a major reason why the country is in this unpleasant situation. Grouping themselves along ethnic, religious, and, to some extent, ideological lines, the elites are seen to be locked in a seemingly endless battle. Each group claims to have been uniquely victimized by the other and to have the truth on its side. As a result, no group shows an appetite to listen to the pain and suffering that the other group also claims to have equally experienced. Coupled with the serious trust deficit, this reliance on the absoluteness of each group's truth and narratives has impeded meaningful intergroup conversations and any resolution of the country's chronic social and political problems. In this paper, it is asserted that facts and any exclusive claim to the truth will neither make any of the groups a permanent winner nor resolve Ethiopia's complex problems. Instead, what will help create a peaceful future for all is to undertake an empathetic consideration of the perspectives and grievances of the respective perceived rival groups. This will enable stakeholders to fill the

trust gap, promote compassion and communication and, ultimately, conduct meaningful conversations among the different groups. Accordingly, members from the various ethnic, religious, and ideological groups should focus more on understanding each other's concerns than winning arguments. This might not necessarily entail doing what each considers to be logical or factually right; rather it requires doing what is emotionally correct in the eyes of the adversary group. National and international partners seeking to help Ethiopia overcome its current challenges should also consider including initiatives that foster an empathetic culture in the society.

DISCUSSIONS

Dr. Abadir M. Ibrahim — Discussant

I can say that Zelalem started with similar premises and arrived at a conclusion similar to those in the paper by Semeneh Ayalew[*], although their methods were quite different. But I feel that Zelalem dwelled more on the elephant in Semeneh's room, that is, the political side of what was mentioned in the earlier presentation. Thus, the two created a conversation that interlocks.

Zelalem asked how we can overcome the trust deficit. He also said that there needs to be recognition, not of facts, but of the suffering of others. He proposed that, rather than relationships of real or perceived dominance and a sense of victimhood and mutual blaming, empathy and the recognition of each other's pain is a sine qua non for the resolution of our ongoing conflicts.

Then he discussed three areas in which these things are manifested: history, national symbols, and the Constitution. In my view, these all converge towards power and the state. I agree with Zelalem that the State is incontestably crucial

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[*] See another contribution in this volume by Semeneh Ayalew, "The Politics of the Social: Imagining a New Political Order in Ethiopia."

since it is the state that legitimizes a particular version of history by incorporating it in the educational curriculum and history books that are taught in the schools. Even when talking about national symbols, we are also talking about the state, the flag, the insignia, the public squares, and what the state can do with its purse. The same is true of the Constitution which, among other things, is about the division and limitation of power but also a statement of what the nation is.

Zelalem's proposals are very well presented, and I have nothing to add to the major points he said. However, I am a bit skeptical about some of the prescriptions Zelalem made as to how we can achieve these outcomes, which I find to be agreeable. For example, national service and the other examples could be problematic when they are implemented. I am not convinced that those types of exercises can be effectively implemented. But I would also like to challenge some of the interpretations of the empirical data or the theoretical lens he uses to interpret them. So, let me go back to the main points which I wanted to raise.

Zelalem's points about the Constitution and national symbols can be reframed as a conflict between different actors that promote competing narratives of history. Instead of looking at them as history, and therefore placing emphasis on fact versus emotion, should we not consider them in light of the reasons those disagreements exist or became salient? Should we look the present, specifically in terms of contemporary competitions over power? Can we not hypothesize about the root cause of why debates on the nation's history do not feel like debates about facts and why each side comes up with different interpretations and histories to start with? Why would the average politician bother about some archaic historical topics? Unless you look behind the debate, what you are observing becomes a moving target. As long as we do not have equitable distribution of power, including equitable distribution of recognition, prestige, and the inclusion of one's narrative into the national narrative, we will always have conflict that will be manifested in debates about history or other topics normally only academics would be interested in. This can move in mutually reinforcing circles where the debates can also sharpen the initial differences that caused them. I recommend structuring the work from this point of view since it will be hard to call for

empathy when the fight behind the historical debate, the fight over resources, is not addressed, and political or social actors have an active incentive to create debate; in these circumstances, a call for empathy is not going to find welcoming ears.

My other point is that, while we are having this discussion at the level of perspective taking exercises or trainings, we might as well go ahead and talk about education. The ability to frame the education system—its contents and the language in which it is conducted—are among the most important functions and powers of the state. That is where we learn most of our history, our social studies, gender, science and epistemology, and related things. Our knowledge and understanding of history fall under this, which is one central element of the overall discussion made in this paper. This recommendation is not a critique; it is an invitation to expand the horizon. The project you proposed would have an impact beyond the number of trainees that you can bring into a room if you think from a point of view of pedagogy, and educational policy, and curricula. I am just giving you a specific structure: if you adopt it, you might be able to have more impact in terms of achieving the outcomes you are hoping for.

Coming back to perspective taking and similar exercises, the way they were framed made them sound like an NGO project. Not that NGO projects are not effective, it is just that even if they are done effectively, they just scratch the surface. So, it might be better to think more in line with what Semeneh was saying, expanding the field beyond NGOs, like እድር (*edere*) and ዕቁብ (*eqube*). My point should not be mistaken for NGO training for እድር (*'edere*) and ዕቁብ (*'eqube*) which is something that is happening in the name of "constituency building." I am thinking here more in terms of how one starts a proper social movement, such as the Zone-9 type of movement or the Qeerro movement in Oromia, where you had thousands of teens and young adults sacrifice their lives for a cause. Such an approach would be more impactful than NGO trainings on perspective taking.

As a second move, let me propose some points by way of critique. While I have raised the issue of state power as something that complements Semeneh's paper, I

should also say that it should also be raised as a critique especially from two points of view.

First, I want to raise the issue that, as legal professionals, we have certain prejudices that have us favoring state power and the state structuring of power without even noticing it. Zelalem starts his discussion with empathy and the need for empathy and in the next section moves on to nation-building, national service, the creation of a multilingual society, relationships between regions and different ethnic groups. The first part is a discussion of problems and injustices that are created in the exercise of state power and the second one proposes solutions that assume that the state is going to somehow start solving those problems.

When we discuss empathy and when the solutions are state-centric, there is always a risk in involving the state because the latter is about power. If we, for instance, involve the current state in perspective taking exercise, it will take the funding and the good will, and use it for something else in ways you did not expect. The result may be the exact opposite of what you were hoping for. When we involve the state, we are dealing with a strong and powerful actor that wants even more power. So, this is a bridge from empathy to power that is not explained and is something to be thought about twice. We have experienced the government, current and past, doing similar things where they take an idea that sounds good, get foreign funding to implement it as a human rights or governance project, and turn it into a project of strengthening their own hand.

My second critique is regarding the "how" question. When you are talking about the deficit of trust, you are not necessarily alluding to how that deficit of trust is to be overcome at the political elite level and at the social level. Your presentation reminded me of the theory of social capital postulated by Robert Putnam, which explains that social capital is built not by state action, but by structures in society, where you have bridging social capital created by multiple ethnic, linguistic, class, and religious groups when they are brought together by social organizations. The social organizations create situations in which members of society interact so they can realize and experience the circumstances of the other in a way that they will

humanize the other. This makes it easy to empathize across those social lines. I do not know how Putnam, or his students, would recommend solutions in line with what you are suggesting. What I can recommend is expanding into the field of social capital to gain some perspectives as I can imagine that many would have thought about the same problems but with more discipline or theory specific insights. I do not want to assume too much in terms of making recommendations, however, as the broader point is that the "how" aspect of the piece is what I struggled with. I am not convinced that giving perspective-taking trainings is going to make a dent on our serious problems. My impression is also that this is not explained or sufficiently explained in reference to the literature. I wonder if you are relying too much on an individual training because you are focusing on individual psychology when you are dealing with topics that are best dealt with through social psychology or sociology. I am not familiar with the field or the literature you are delving into so let me hand over the conversation by pointing out that you have not made plain what theoretical backing your recommendations stand upon and registering a discomfort with how you propose getting from point A to point B.

Dr. Yonatan Fessha

I appreciate the attempt to make use of local concepts and values to reorder the state and society. It looks like some sort of indigenization is happening. But at the same time, we have to be careful about the assumptions that we have about those values. For example, we should ask: do those values have a cultural universal status? Take for example ይሉኝታ (*yeluñetä*): is it a cultural universal value or a pan-Ethiopian value? If neither is the case, you might risk the danger of imposing the value that belongs to a certain segment of society on the rest of the population. Of course, we have always been imposing Western values, for example in constitutional practice, but the reaction that we might generate from imposing Western values may not be the same as the reaction generated when we impose a local value that largely belongs to a particular segment of society. So, we might have to be careful in determining the place of those values in society.

Dr. Semir Yusuf

There are a couple of things I liked about the presentation. The first is even though you have not pointed it out explicitly, it is very much based on Habermasian notion of intersubjective communication. The assumption you are making is that, since it is very difficult for us to arrive at the truth about history and politics, let us assume that they are subjective values and perspectives on race and other contentious matters, and take them for what they are and communicate across our subjective ideals and perspectives. That is a very realistic way of dealing with conflict and transformation.

The other thing I liked about the presentation is that it is directly contrary to the security dilemma that has trapped Ethiopia's politics for the last couple of years. It is saying: instead of focusing on arming ourselves leading us into an arms race, let us cool down a bit and empathize with the other person or group so that we can arrive at some sort of deal through intersubjective communication. I believe that is an important condition for the success of the national dialogue; one thing we need for the success of the national dialogue is the inculcation of empathy in all the different participants.

But how can we relate the two concepts of "empathy" and ርሕራሔ *(reḥerāhé) (radical compassion)*—previously presented by Semeneh? They are very similar but also quite distinct. In my view, one way to relate the two concepts is, for example, to understand ርሕራሔ *(reḥerāhé)* as proactive, and "empathy" as reactive and passive emotions. I mention this because ርሕራሔ *(reḥerāhé),* as Semeneh defined it, has an element of radicalism in it: it instigates someone to act, while "empathy" is something we need to feel in some personal affairs of ours regardless of ርሕራሔ *(reḥerāhé).* So, any ideological or political conviction could drive us to act but when we act, we have to make sure that we empathize with the other or our antagonist. Another way of relating the two concepts is through the in-group/out-group relationship. We might apply ርሕራሔ *(reḥerāhé)* in in-group mobilization, or when we mobilize people we consider to be "ours" on different terms (class, ethnic, gender, etc). But when we mobilize our people, we have to have empathy towards others. Therefore, for in-group relations it is ርሕራሔ *(reḥerāhé),* and for

out-group, empathy. We have to combine these two concepts to arrive at a more equitable and harmonious society.

The same concerns I raised in connection with ርሕራሔ *(reḥerāhé)* during Semeneh's presentation also apply to Zelalem's presentation on "empathy." But I want to add one additional point: when does the realm of empathy end and state power or justice begin? To what extent should state actors and the state itself consider human relations, in their empathetic sense, and then when should it come out and act against injustice? In other words, should not we be careful not to metaphysicalize everything and call it empathy? When should we say something is wrong and should be redressed sometimes with the intervention of state power? We need to reconcile our concern for rule of law, justice, social justice with the need for empathy across cleavages. And this is very much related to rule of law, which is often considered to be legal term; for me it is primarily a political term. Because it involves two things: one, the law and second, those who enforce the law—both concepts are highly political. Following your argument, we might apply the concept of empathy in both areas; we have to empathize with others in their definition of and perspectives about the law, and we have to also empathize with others in their perspectives about who enforces the law. I believe this should not complicate our understanding of rule of law; we need rule of law. Therefore, the question is, when should we consider the rule of law as something inviolable, as something necessary, and then when and how should we leave the room for the full exercise of empathy? We need to reconcile these two competitive concepts.

Melhik Abebe

I think there is a need to clearly distinguish between empathy (or radical compassion) and the other acts that you described to be expressions of empathy, but I do not agree with those descriptions. I consider them to be some form of transactional elite pacts done every now and then between elite groups, representing different powerful groups uniting forces against, usually, a powerful common enemy or ideological opponent. These are not done to address well-established questions of justice which, if there could be an honest consideration of them, need to be addressed as legitimate concerns instead of being dismissed. For example, I do not

see the Oromara deal as an act of empathy or solidarity, but as a transactional, opportunist and unprincipled act. One limitation of such acts is that they are hard to replicate at different levels of social structure; they happen very singularly and need the right conditions for them to emerge as an ideal option for elites.

Thus, the test for us to determine if certain acts are truly acts of empathy is if they help us concretely in terms of repairing social fabrics at that moment of crisis. That is what makes it radical. And its application should not be limited to just those that have entered into that pact or transactional activity affecting everybody, but should include everybody. I also like to add the importance of intellectuals if we are going to be part of such deals; we need to have an unflinching ethical fidelity to intellectual honesty about the different discourses that we come across. I do not think we should say, for instance, different groups in Ethiopia do not see each other's pains or value each other's pains or see pains of historical injustices of each other and just leave at that. I do not think that is the case. I believe there should be some things that should be etched in our collective memory as either bad or good. For example, may be not all but some fruits of the Revolution were good: the end of feudalism, the end of a monarchy based on the Solomonic dynasty, and religious equality are all good outcomes of the Revolution. We have to agree that these things are positive, even if there is a side that does not view these positively. Intellectual honesty is a good place for us to start.

Dr. Getachew Assefa

My observations on Zelalem's presentation also relate to what Semeneh proposed in his paper. Regarding the notions and concepts that are discussed (ርሕራሄ (reḥerāhé) and empathy), what is your assessment of the current state of affairs of these notions in society? Are we saying that empathy is on the decline, or that it does not even exist? What is our starting point to make recommendations for them to be incorporated or taken into public spheres or the political arena? It is important to see their current state, whether they have been propped up by political public policy in the past, and whether the society actually lacks them and, if so, to what extent. These are questions that need to be addressed as a starting point to build upon.

Second question: are you recommending empathy to be a state affair? Is empathy a state affair or a civil society affair? It is important to define who is best suited to nurture this concept and the danger of it being appropriated or even being degraded by the state. It is also important to consider the influence of public policy on the public role of these notions. For instance, over the last 30 years, what was the impact of education policy regarding those social capitals? Should not we evaluate the role of public policy in education and other areas to craft intervention to improve what has gone wrong?

There are some generalizations you made in your presentation which might be problematic. For example, you say Oromo and Tigrayans hate the old Ethiopian flag: do we have concrete evidence for these assertions? Because, for instance in Ambo, the epicenter of major Oromo movements, when elderly people die, the horsemen go to the graveyards wrapped with the Ethiopian flag. There is not solid evidence to prove that one group feels a certain way and the other does not, etc. You also promoted a pessimistic view that we cannot agree on Ethiopian history. But has there been enough deliberation or discourse to give up on it? My view is that not enough deliberations have been made on these issues; real and genuine deliberations should happen and then we can go from there.

How can we reconcile empathy and rule of law? How empathetic should we be? Do we need to empathize with criminals and set them free and thereby encourage people to break the law? Where is the line for these kinds of morality-based notions, and how does the state discharge its role accommodating these concerns?

Dr. Solomon Negussie

In attempting to advance social values like ርሕራሄ *(reḥerāhé)* and empathy, we should consider the incontestably crucial role of the state in upholding them. On the International Day of Fraternity last February, there was a conference in Addis where religious leaders, community elders, customary institution leaders like Abba Gadaas, and other community representatives participated. The participants in the conference emphasized that it is the social norms, religious institutions, and cultural values that kept the nation from collapsing. But they also emphasized the

loss of these values and the moral decay we are facing, and which is leading us into unchartered territory. To tackle this, the community leaders emphasized that the state must ensure, at a minimum, protection of individuals from violence and ensuring peace and order. There needs to be minimum level playing field into which these cultural values can come as an influencing factor for maintaining social cohesion, peace, and order. Otherwise, we will end up losing our rational capacity and moral values and start killing people whom we consider "other." There should be a link between the state and civil societies and other cultural and religious institutions. We cannot simply ignore the roles of the state, rule of law, and institutions in institutionalizing social values so that they can be promoted and protected through social movements or other means. Simply preaching our social values will greatly diminish their impact in society.

Dr. Juweria Ali

I think there is a need to define certain key concepts. The unproblematic deployment of these huge terms like "truth," "reality," and "knowledge" can be improved. Regarding your assertion that truth lost its quality or objectivity as a result of competing national narratives, should there be a nationally accepted truth? What is truth and what is objectivity? One way to dealing with this problem is to identify the philosophical underpinnings to determine what your positions are on "knowledge," "truth," and "reality." In relation to the strategies you identified, you mention the importance of understanding lived experience. That is an interpretivist framework which is based on ontological positions: that there are multiple realities, that they are locally constructed and continuously constituted and reconstituted. That will help us to deploy these big terms unproblematically. Because, even if there was a truth, there is no agreement as to what the content of truth is; nor is there agreement as to what we mean by objectivity or if it actually exists. For me, reality is subjective—something that is negotiated and varies based on the individual. We should look beyond facts and reality, towards understanding the reconstruction of group or individual experiences and the construction and reconstruction of knowledge.

Dr. Yitayew Alemayehu

I have the sense that we are under the oppressive unchangeable force of huge structures beyond our control, be it the state or identity-based structures like ethnicity, etc. It appears to me that for all the good wishes and visions for democracy, rule of law and the like that we have, forces beyond our control—the larger structural forces of society—seem to be frustrating most of what we attempt to achieve. These structural forces: political, economic, identity, etc., are in such a state that they are terrifying and do not seem to budge even a little bit. I believe that, if the structures do not change, then we have to have that agency to change them. This conception of the politics as personal and moral in the presentations by Zelalem and Semeneh gave me that sense of empowerment or agency. I may not agree with the ideas of empathy or radical compassion as presented, respectively, by Zelalem and Simeneh, but I generally agree about the need to bring the question of morality into our politics, law, and structures to question them and to chart a vision of where we should be going. This action depends on our individual initiative and action. Questioning the morality of our structures, their fairness, their goodness, their essential desirability, etc., must be assessed—this is what I see in these presentations. We have to be mindful of how we as individuals and powerful agents question and help in the transformation of these structures. The value of the Semeneh's and Zelalem's presentations is that they bring the individual or the agent into the discussion, which is very important.

Fowsia Abdulkadir

I found the phrase "the trust deficit" in the title of your paper very telling; it is the historical narration by the Ethiopian state structures and counter-narratives that created the deficit. It is important to address the deficit—the question is, how do we fill it?

It is interesting and also important to discuss the state and trying to bring concepts such as empathy to the language of politics. But sometimes we are making assumptions that the deficit of trust comes from the lived experiences of Ethiopians

in the broader sense; not everybody was or is equal. For you to be able to empathize you have to be able to see the whole of it. And based on the vantage point we are speaking from we provide different narratives. It is good to bring humanity, empathy, radical compassion to societal discourse, but we should also be cognizant of the lived experiences of the 110 million people of this country, which tell narratives that contradict each other every moment. Ethiopia has great potential to be a multicultural democracy, but the way it has been initially envisioned and created, or even articulated, fails to present the narrative that comes from lived experiences. For example, abroad Ethiopia is presented as Christian nation; but I am surprised at the number of Muslims in each ethnic group. And I think there seems to be oversimplification when we talk about empathy. State structures need to be reformed and justice needs to be at the center of it. You can empathize to a degree but at the end of the day when you institutionalize empathy there is the danger of it becoming coerced into something else; we need to be mindful of this.

Dr. Adem Kassie Abebe

There is a voyage that we have to make from values to specific decisions. We start from values that inform our policies, then our strategies, then our institutions and laws, and then we have the decision. So, if we understand empathy or compassion as values or as guides to judge or tame the decisions that we make, they can be helpful at every stage, particularly in times of transition. Because, in moments of transition, the contested issues are the law and institutions themselves; so, enforcing the law becomes unfair since it is contested. So, the importance of values is heightened in times of transition.

Women's Rights and Ethiopia's Future Social Contract: The Need to Adopt an Intersectional Approach

Dr. Tigist Shewarega Hussen and Teguadda Alebachew Sete

Abstract

The Constitution of the Federal Democratic Republic of Ethiopia (FDRE), adopted in 1994, establishes the equal rights of women and men across economic, social, and political spheres, including education, employment, and access to and management of resources. Ethiopia is also a party to various international human rights instruments. However, despite these various measures, women continue to be amongst the most marginalized and vulnerable groups in all aspects compared to men. These facts are indicative of how women's rights are a secondary concern to the state. It is through this observation that this paper questions the FDRE constitutional design, which is based on and demands what we call practices of *phased liberation approach*, which prioritizes and seems to focus exclusively on the politics of nationality/ethnicity as the primary point of struggle of the nation. We argue that, for over 30 years, ethnic identity politics have taken up the national interest at the expense of the structural, developmental, and other human rights struggles that the country faces. As a result, other forms of social, cultural, and political injustice are positioned in the back seat of the government agenda and the overall justice system. To this end, this paper proposes *an intersectional approach* as a potential instrument for shifting to the *phased liberation approach* and creates an opportunity to address the other forms of injustice faced by diverse segments of the society. An *intersectional approach* to Ethiopia's national interests creates a common ground, across diverse human right issues, for political negotiations and designing the new social contract. We argue that there has to be willingness to forgo a phase-by-phase exclusivist approach to reconcile historical grievances; instead, we propose an expansive and inclusive understanding of the multi-layered social and political realities that deeply affect citizenship rights. As such, any debate on the need to reform the existing social contract and the actual reform process of the Constitution, if and when it takes place, needs to be guided by the *intersectional approach*.

Introduction

In Ethiopia, the ongoing and extremely polarized movements and debates regarding the need to revise the current constitution are entirely centered around nationalist and ethnonationalist politics. Both standpoints, those who advocate for a radical support for ethnic-federalism and those who advocate for dismantling ethnic-federalism believe that the rationale behind their cause is to address the historical and present grievances of Ethiopian people and secure a future that genuinely affords equal citizenship rights. In this context, conversations about alternative solutions for observed gaps in the Constitution often receive no attention, and there is not sufficient knowledge of other socio-political matters that need urgent attention in relation to the revision of the Constitution as well. The issue of women's rights is one such urgent matter that needs to be included in the advocacy and movement to revise the Constitution. Yet the gaps in constitutional rights and the impact that is expressed by many feminist thinkers and human rights advocates in Ethiopia continue to be sidelined.[1]

In this paper, we seek to propose an intersectional approach to explore and rationalize the motive behind the need for revision of the current constitution. As feminists, we attempt to show how the constitutional politics, practice, and experience are entangled with the identity politics that limits the expansiveness of the Constitution to answering the nationalist question. This is demonstrated in scholarship, activism, and advocacy that prioritizes fixing the nationalist question. The obliviousness of such nationalist views and dynamics is indicative of a power structure that is deeply patriarchal in nature.[2] Whether the Constitution needs to

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[1] Teguadda Alebachew, "How and Why Constitutions Are Important for Gender Equality," paper presented at the conference: Re-politicizing the Gender Equality Question (September 30, 2021, Addis Ababa, Ethiopia); Sisay Kinfe, "Cultural Legitimisation of Human Rights: The Case of the Guraghe Ethno-Cultural Community in Ethiopia" in Tadesse Kassa Woldetsadik, Tesfaye Abate Abebe, & Wolfgng Benedek (eds.), *Implementation of International Human Rights Commitments and the Impact on Ongoing Legal Reforms in Ethiopia* 140 (2020); Tigist S. Hussen, Rahel S. Hassen, & Lidet T. Shiferaw, *The origins of the original sins of federalism: A feminist perspective*, 1 Setaweet Journal 65 (2020).

[2] Tigist S. Hussen, "War in the home: marriage and mediation among the Gurage in Ethiopia" (MA thesis, University of the Western Cape, 2011).

be revised or not continues to be a debatable issue, but taking an intersectional approach and inviting different stakeholders and experts on diverse social, political, and economic issues to explore the shortcomings of the Constitution would provide an opportunity to strengthen calls for the revision of the Constitution.

Intersectional feminist thinking and approach, as developed by Kimberlé Crenshaw,[3] helps to analyze intersecting power dynamics that affect individuals and groups in our society. The core principle of intersectionality centers around the idea that the experiences of women and marginalized communities can be better understood through critical observation of the interactions of multiple structural power dynamics.[4] The framework is rooted in the politics of identities of individuals and groups, and how categorizations such as gender, class, religion, ethnicity, sexuality, and race (among others) become enmeshed at different historical moments to form identities that cannot be neatly reduced to separate parts and therefore cannot be solely measured to be in violation of particular human rights.[5] Intersectionality provides an insight on the expansiveness of identity beyond ethnicity, which seems to be the major concern of the elites who promote critical views of the Constitution.

Hill-Collins argues that "one can use the framework of intersectionality to think through social institutions, organizational structures, patterns of social interactions, and other social practices on all levels of social organization."[6] Thus, intersectionality stresses how the multiple factors mutually construct one another and elaborates to deeply illuminate how different social groups are positioned in unequal power relations. Using this logic, we argue that women's everyday

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[3] Kimberlé Crenshaw, *Mapping the margins: Intersectionality, identity politics, and violence against women of colour*, 43 Stan. L. Rev., 1241 (1990).

[4] P. Hill-Collins, "Some Group Matters: Intersectionality, Situated Standpoints, and Black Feminist Thought" in L. Richardson, V. Taylor, & N. Whittier (eds.), *Feminist Frontiers* 66 (6th ed. 2004).

[5] N. Yuval-Davis, *Intersectionality and feminist politics*, 13.3 European Journal of Women's Studies 193 (2006).

[6] Hill-Collins, *supra* note 4.

experience should be explored (especially in the context of the current war,[7] violence against women, and political instability in many parts of the country) in terms of the challenges of gender identity construction, cultural or ethnic identity, class, and legal human rights that women face within their families and their communities. One needs to examine these intersecting layers and explore how responsive the Constitution is in its current form and how such gaps function to limit women's choices and scope for agency and resistance and prevent them from defining their experiences as women.[8]

In the following sections, we attempt to show the shortcomings of the constitutional framework in Ethiopia. We argue that while, the quest for the opportunity to revisit and reimagine the Constitution is very important, there has to be a willingness to forgo a phase-by-phase exclusivist approach to reconcile historical grievances; instead, we propose an expansive and inclusive understanding of the multilayered social and political realities that deeply affect citizenship rights. This paper primarily focuses on the women's rights issue, but we strongly believe that the framework can be applicable to other human rights discourses.

1. A Phased Liberation Approach: The Current Ethiopian Social Contract and Women

A *phased liberation approach* with a primary goal of answering the national political questions in Ethiopia, as opposed to an intersectional take on tackling the shortcomings of the Constitution as we know it, remains a deep-rooted misgiving in Ethiopian politics. The essentialization of nationalist issues has been framed as the primary existential threat since the Student Movement in the 1960s. This was later formalized following the regime change in 1991. Following the toppling of

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7 Since 4 November 2020, Ethiopia has been at war with itself, particularly in the Tigray, Afar, and Amhara regions. The Ethiopia Human Right Council, Amnesty International, and Human Rights Watch have been extensively reporting on war crimes, particularly violence against women, in these regions.

8 Tigist S. Hussen, *Empowering the nation, disempowering women: The case of Kitcha Customary Law in Ethiopia*, 23.82 Agenda 94 (2009).

the military regime of the Derg in 1991, Ethiopia's government formally transformed into a new political structure based on ethnicity which, according to some commentators, was "radical and pioneering."[9] Many argue that it has been radical because it has introduced territorial autonomy to the federated units in what was previously a highly centralized and unitary state.[10] It has also been pioneering because no other state in Africa or (nearly) around the world uses ethnicity as the center of the state and government structure.[11] The adoption of the Constitution in 1994 formalized the unprecedented structure of the Ethiopian state, enshrining ethnicity as the edifice of the state and the government. Making ethnicity the single most important marker of the state and government was based on a framing of past historical injustices in Ethiopia as "ethnic oppression" and it therefore aimed to empower all ethnic groups. The framing of Ethiopia's past as one of ethnic-based oppression was argued to have been championed by TPLF, the dominant political group on the political scene during the adoption of the FDRE Constitution.[12] In relation to this, many argued that the making of the FDRE Constitution did not fulfil the procedural legitimacy of a social contract since the interests of many sections of the society were not represented.[13] The making of the Constitution mainly involved groups with similar or identical goals and articulation of Ethiopia's historical past.[14] Several other questions related to political, economic, social, and cultural issues were not thus duly tabled and articulated in the constitutional deliberations.

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[9] David Turton, Introduction to *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* 1 (2006).

[10] *Ibid.*

[11] *Ibid.*

[12] Bekalu Atenafu Taye, *Ethnic Federalism and Conflict in Ethiopia*, 17.2 AJCR 41 (2017). Also see John Young, *Peasant Revolution in Ethiopia* (2006).

[13] Bekalu Atenafu Taye, *supra* note 12, 41.

[14] Theodore M. Vestal, *An analysis of the new constitution of Ethiopia and the process of its adoption*, 3.2 Northeast African Studies, 21 (1996); Also see Tsegaye Regassa, *The making and legitimacy of the Ethiopian constitution:towards bridging the gap between constitutional design and constitutional practice*, 23.1 Afrika focus 85 (2010); Teguadda Alebachew, "When Constitution Lacks Legitimacy in The Making: The Case of Ethiopia" (LLM Thesis, Addis Ababa University, 2011).

Many argue that "the nationality question"[15] was not the only question that was raised during the Student Movement[16] that shaped the current Ethiopian political structure. There were also claims that Ethiopia's problem was a result of deeply-seated class hierarchies that created bourgeoisie who capitalize on the marginalization of the poor and drive the nationality question towards addressing their self-interest.[17] Among groups who claimed this view was the All-Ethiopia Socialist Movement (AESM, better known by its Amharic acronym መኢሶን (*Me'ison*)) and the Ethiopian People's Revolutionary Party (EPRP).[18] Some also cite the peasant revolt against the state from 1941-1970 as evidence that Ethiopia's problem was class oppression, than ethnic.[19]

Besides the questions of nationality and class, the Student Movement also raised and articulated the oppression of women on the basis of sex and gender. Oppression of women as articulated during the Student Movement was multiple, stemming from different identities: sex, gender, class, and nationality.[20] Some also add violations of individual rights to the list of injustices experienced by the

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[15] A nationality question was framed by the 1960's Student Movement and specifically articulated by Wallelign Mekonnen in an article he published in the HSIU students' newspaper *Struggle* in November 1969. Wallelign Mekonnen argued that Ethiopia was not yet a nation, but a country where there was Amhara and, to a certain extent, Amhara-Tigray supremacy. He argued that, in a country of many nationalities with a varying cultures and styles of dressing, it is only an Amhara and to a certain extent Amhara-Tigray culture or language which characterized the Ethiopian nation. He, accordingly, suggested a system that he called a "genuine national-state," which is a state in which all nationalities participate equally in state affairs, to preserve and develop its language, its music, and its history, and where no nationality dominates another, be it economically or culturally. See Wallelign Mekonnen, *On the questions of nationalities in Ethiopia*, Arts IV, HSIU, Nov. 17, 1969, available at:
https://www.marxists.org/history/erol/ethiopia/nationalities.pdf.

[16] The Student Movement was a movement for the rejection of oppression in all its forms. It started with a demonstration in 1965, with a slogan of "Land to the Tiller." Demonstrations continued in the subsequent years with different slogans against the dominant social ward, one of the preeminent concerns being the "nationality question". See Bahru Zewde, *The Quest for Socialist Utopia: The Ethiopian Student Movement, c. 1960-1974* 229-262 (2014).

[17] Bekalu Atenafu Taye, *supra* note 12.

[18] Lovise Aalen, *Ethnic Federalism in Dominant Party State: The Ethiopian Experience 1991-2000* 4 (2002).

[19] Gebru Tareke, "Rural Protest in Ethiopia, 1941-1970: A study of the three rebellions" 215 (Ph.D. dissertation, Syracuse University, 1977).

[20] Bahru Zewde, *supra* note 16, 225.

Ethiopian people. However, women's rights were never given an equal footing to the nationalist political questions. Naturally, women's struggle for equal rights was put in the back seat to the national question and eventually got erased. Women, yet again, find themselves advocating for their rights with little support in their marginalized position at the periphery. It is important to acknowledge that the differentiation and prioritization of social and political issues is indicative of a particular set of power dynamics. As such, the *phased liberation process* that the nationalist camp has been using, by insisting on first solving the "question of nationality," for a very long time in different historical periods, seems to produce a grievance for different groups in our society.

Despite the articulation of several forms of injustice, including injustices based on gender and sex during the Student Movement, the current constitution adopted a political structure based on the nationality question. As such, ethnicity and ethnic groups is the central theme of the existing Ethiopian social contract. Ethnic groups and their interests make the frame and content of the FDRE Constitution. The Constitution established a state and government structure which is exclusively based on ethnic groups and their interests. As can be seen from the preamble, the Constitution considers itself as a social contract between Nations, Nationalities and Peoples (NNPs).[21] It also deems NNPs sovereign; the ultimate source of power (Art 8); owners of land (Art 40(3)); bestowed with a right to claim territorial autonomy (Art 39); constitutional interpreters (Art, 62(1) cum 61(1&2)) and those who decide on constitutional amendments (Art 105(1)).

The entire constitutional system is all about promoting and protecting ethnic identities. Other identities are, hence, forced to be condensed under ethnic identities. Citizenship is conditioned upon membership to the NNPs. A citizen's relation to the state is thus an indirect one, i.e., mediated by their membership to an ethnic group. The way the Constitution acknowledges ethnic identity accordingly makes other identities politically insignificant. The Constitution lacks a frame to address other experiences of historical injustice on the basis of other

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[21] NNP's, even if they appear in the Constitution as if they meant different things, they essentially refer to the same thing—ethnic groups.

grounds, such as class or gender. The emphasis given to ethnicity made women's issues politically irrelevant even if they were also victims of historical injustice. The same is true as regards injustice done to individuals of other identities.

At another level, the Constitution lists internationally acclaimed individual rights—but they are subordinate to group or ethnic rights. That is because the Constitution is the contract between NNPs and, hence, is their own document. The preamble mentions individuals only in reference to their role as a means to advance the goals and objectives of NNPs.[22] This can be seen in the third paragraph of the preamble, which reads: "Firmly convinced that the fulfilment of this objective [the objective for NNPs coming together, stated in the preceding paragraphs of the preamble] requires the full respect of individual and people's fundamental freedoms and rights, to live together on the basis of equality and without any sexual, religious or cultural discrimination." Individuals are given the right to vote in periodic elections, but the Constitution regard assemblies to be the expressions of the sovereign power of the NNPs rather than the individual voters.[23]

However, beyond listing the internationally acknowledged rights of the individual, the Constitution does not provide a frame to solve the potential conflict between individual rights and the rights of NNPs, the owners of the Constitution. The practice, however, shows that it is the rights of the ethnic groups which prevail. The massive scale of internal displacements of individual citizens and the destruction of property is a manifestation of the fact that group rights are considered superior over individual rights. Also, the House of Federation (HoF), in its interpretation of the Constitution in the *Benishangul-Gumuz case*, implied that it is the right of NNPs to self-administer that prevails over individual right to be elected protected under Article 38 of the Constitution.[24] The same is true with

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[22] Berihun Adugna Gebeye, *Toward Making a Proper Space for the Individual in the Ethiopian Constitution*, 18 Human Rights Review 439 (2017).

[23] The Constitution of the Federal Democratic Republic of Ethiopia (FDRE), Proclamation No 1/1995, Article 8(3).

[24] The *Benshagul-Gumuz case* was a case involving the tension in the region between the indigenous groups (Berta, Gumuz, Shinasha, Komo, and Mao) and "the highlanders" (Amhara,

regards to the fate of women's human rights, which are guaranteed under chapter three of the Constitution. Based on our observations, with the exception of Article 35 that acknowledges women's rights, the Constitution lacks a frame as to how these rights of women can be realized in a system where ethnicity is the central organizing factor for the structure of the state and institutions of government. It also lacks a system to resolve potential conflicts that may arise between the rights of women and the rights of ethnic groups. This is especially true when the customs and cultural practices of an ethnic group is not in alignment with the rights of women as enshrined in the Constitution.

It has to be recognized that Ethiopia has more than 83 ethnic groups with different cultures; it is practically impossible to unify or reform every culture in accordance with the Constitution. Therefore, the drawback of the preamble of the Constitution, with its notion of "ethnic reformation"—besides the resistance from those who are affected by its current structure—concerns its applicability. On the same note, even though the problem might be how to reconcile the group rights with individual rights (and particularly women's rights), it is impossible to simply carry on denying or ignoring the effects of having to live with incompatible regulations that do not pay attention to the other variables influencing the social contract in each society. Overall, then, from a feminist perspective, depoliticization of other social issues and concerns has a direct impact on

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Oromo, and Tigray nationalities). Candidates from non-territorial political minorities (Amhara, Oromo, and Tigray nationalities) were prevented from running for the Regional Council in the 2000 election on the basis that they were not able to speak any one of the five languages of the region, namely Berta, Gumuz, Shinasha, Komo, and Mao. The Berta in particular insisted that the candidates should not be allowed to run for office if none of them are versed in Berta language. They, accordingly, submitted petition to the Election Board, which decided to bar the candidates from running based on the electoral proclamation which requires for individuals running as candidates for regional council be conversant in the local language. Applicants petitioned to the Council of Constitutional Inquiry (CCI)/HoF claiming that the decision of the Board violated their constitutional right to be elected under article 38 of the Constitution. Finally, the HoF affirmed that candidates must speak the local language to be able to run for regional councils. However, in that particular case, the House decided in favor of the applicants, allowing them to run for election since the working language of the region was Amharic. See Assefa Fiseha, *Constitutional Adjudication in Ethiopia: Exploring the Experience of The House of Federation (HOF)*, 1.1 Mizan Law Review 23, 23-25 (2007).

women's concerns with locating how intersecting social and cultural practices can enable or impede women's independence.

2. Women and Ethiopia's Future Social Contract: The Need to Adopt an Intersectional Approach

Feminist scholars emphasize that the problem with the Ethiopian constitutional design is its preference to primarily recognize ethnic pluralism and groups with shared histories and political experiences.[25] Often, these recognitions are given a priority by dismissing or paying little attention to the importance of individual experience in favor of an analysis of what is considered to be a group-based experience. The urgent need to reshape our social contract from an intersectional approach is best explained in Hussen's thesis; she argues that "despite the hierarchies within the group, intersectionality works better as a substantive theory when applied to an individual-level experience than when documenting group experiences and commitment concerning the effectiveness of (re)production of group identities."[26] Such knowledge-making draws critical attention to the interpretation of gender inequalities, discrimination, and exploitation by using an intersectional feminist framework, and addresses both patriarchal structures and the multi-layered complexities of gender, class, ethnicity, and religion in Ethiopia.

In addition, when institutional arrangements are organized on the basis of ethnocultural groups and the promotion of their identity, it clearly poses a danger to women's rights.[27] This is because, in a patriarchal and conservative society, ethno-cultural groups succeed in preserving discriminatory patriarchal beliefs, practices and structures. In such cases, since the Constitution allows ethnic identities to be an organizing factor for the regional states, it will result in

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[25] Teguadda Alebachew, *supra* note 1; Sisay Kinfe, *supra* note 1. Lahra Smith, *Making citizens in Africa: Ethnicity, gender, and national identity in Ethiopia* (2013); Tigist S. Hussen, Rahel S. Hassen, Lidet T. Shiferaw, *supra* note 1.

[26] Tigist S. Hussen*, supra* note 2, 30.

[27] Sisay Kinfe, "Federalism, Women, and Politics" *in* Adem Kassie Abebe and Amen Taye (eds.), *Reimagining Ethiopian Federalism, Ethiopian Constitutional and Public Law Series, Volume X,* 234, 248 (2019).

institutionalization and entrenchment of the discriminatory patriarchal practices that are embedded in the cultures of the groups.[28] This, in turn, advocates for the radicalization of patriarchal systems that prohibit women, as members of the ethnocultural groups, from critically engaging and challenging their communities' discriminatory practices. It further weakens women's ability to assert their rights and emancipate themselves from any sort of inequalities and discrimination.[29]

In such a system, it is also difficult for women to exit the group; since the Constitution primarily recognizes the individual through their ethnic-group identity, exiting their community would mean becoming stateless and endanger their belonging. Thus, while women are fully aware of their rights and the layers of obstacles that prohibit them from exercising them, they are forced to choose to comply with the patriarchal structures.[30] Among the impediments are the material and socio-psychological factors.[31] Materially, women are often dependent on men and, hence, they are unlikely to object and exit their group. Even when they are financially independent, they are unlikely to try to exit due to the psychosocial costs of exit, such as social stigma.

Furthermore, the Constitution allows for the adjudication of family and personal matters on the basis of religious and customary laws where discriminatory practices are usually embedded (FDRE Constitution, Art. 34(5)). Although the Constitution states that this will be done on the basis of the consent of the parties to the dispute, it is unlikely that customary and cultural institutions will ensure the consent of women. The *Kadijah case* is an example of this insofar as, even if Kadijah did not consent to the Sharia Court, she was forced to have her case to be decided by the Sharia Court.[32] That case had to go through the Council of

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[28] *Ibid.*

[29] Tigist S. Hussen*, supra* note 8.

[30] Reitman Oonagh, "On Exit," in Avigail Elsenberg & Jeff Spinner-Haley (eds.), *Minorities within Minorities: Equality, Rights and Diversity*, 189 (2004).

[31] *Ibid.*

[32] This concerns a case which originally started at the Sharia Court. The heirs of Kadijah's former husband claimed a share of a house which Kadijah acquired after the death of her husband. However, Khadija presented a preliminary objection to the court, expressing her dissent to the jurisdiction of the Court based on Article 34(5) of the FDRE Constitution. However, the court

Constitutional Inquiry/House of Federation to be deemed as unconstitutional. Yet, as Hussen argues the "majority of women may not even have the courage to oppose their case to be mediated on the basis of religious or customary laws for fear of stigmatization, economical dependency and other socio-cultural and religious factors."[33]

In their recent publication, Hussen, Hassen, and Shiferaw also provide us another layer of the problem, one that is connected to the question of women under the ethnic federalism system in Ethiopia.[34] Their research shows how ethnicity and ethnic groups are primarily defined on the basis of paternal lineage and how ethnic federalism is being practiced and understood in terms of male-centered identity formation and bloodline. They argue that women and their ancestry do not have a role in establishing identity for political purpose or otherwise. While men are considered to be givers of identity, women remain to be receivers of identity; their blood line is not considered as an agent in the definition of an individual's or a group's identity. Here, the Constitution again failed to stipulate how ethnic federalism will be implemented in a gender responsive way. Hence, the Constitution directly or indirectly allows patriarchal norms to guide and dominate the functioning of Ethiopian ethnic federalism. As a result, women by and large are recipients, rather than key players, in the present political structure in Ethiopia.

All these complexities indicate that power and social inequalities do not exist separately; instead, they construct and shape one another. It is logical, therefore, to think about the impact of social inequality as an intersectional power dynamic embedded in the social fabrics of a society. Accordingly, any analysis of social

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proceeded with the case and finally decided on the claim filed by the heirs despite Kadijah's unequivocal objection to the court's jurisdiction. Finally, Kadijah, with the help of Ethiopian Women Lawyers Association, submitted a constitutional complaint to the CCI/HoF. Accordingly, the HoF held the decision to be unconstitutional and ruled that sharia courts can assume jurisdiction only based on the consent of the parties pursuant to Article 34(5) of the Constitution. See the *Kadijah Bashir Case*, Journal of Constitutional Decision, House of Federation, Volume 1 (2008).

[33] Tigist S. Hussen, *supra* note 2, 98-99.

[34] Tigist S. Hussen, Rahel S. Hassen, Lidet T. Shiferaw, *supra* note 1.

inequalities should be cognizant of non-linear complexities. In other words, gender-only, class-only, or ethnicity-only analyses of social inequalities will not capture the complex socioeconomic and political problems of a society. In addition, any policy intervention strategies based on such analyses may not successfully address the problem. More importantly, such analyses may keep some section of the society out of the frame of the policy intervention.

We argue that the analysis of the social injustices in Ethiopia's past as being rooted only ethnicity or nationality is the beginning of the failure to address women's issues in Ethiopia. Even if women are members of an ethnic group, their membership to the group cannot independently explain the injustices they have experienced. Women certainly experience other forms of injustice besides the injustice resulting from their ethnic identity. The framing of ethnicity as a single yardstick for justice, therefore, cannot be adequate to address injustices women face. The Ethiopian Constitution, therefore, by assuming ethnicity as the only ground of social inequality and as a yardstick for consideration of justice, has perpetuated the disadvantaged position of women in Ethiopian society. Furthermore, it indirectly gives permission to other power structures that are instrumental for sustaining and strengthening women's oppression to continue without being challenged.

This has resulted in women's demands for equality and redress for past injustices being disregarded and depoliticized. Put differently, it has prevented the woman question from being a constitutional issue or an issue that needs structural response. Thus, any future endeavor to reconstruct the Ethiopian social contract needs to be based on or guided by this broader intersectional approach to social inequalities. That way, woman question would be able to receive the appropriate attention and response at a structural level. That said, an independent analysis of social inequalities—on the basis of ethnicity or class or gender—cannot present us with an enduring solution for our problems as a nation. Our experience of the last three decades has sufficiently proved that such analyses cannot take us far. Rather, a solution can be achieved through a deliberation on the notion that social injustices and inequality can construct and reshape the Constitution by putting

pressure on the politicians and the elites to find a middle ground as they negotiate a political settlement.

Conclusion and the Way Forward

We wish to stress that a critical legal analysis that focuses exclusively on ethnicity issues produces linear and simplistic arguments. Such approaches have continually proven that there are remaining grievances and resistance from individuals and groups who feel marginalized because of their ethnicity, class, gender, and sexuality. At the same time, such independent analysis of ethnic identity politics assumes (even if implicitly) that individuals in a specific ethnically-identified group are loyal to their social contracts without challenge. Thus, it does not leave adequate room for envisioning the transformation of the social contract, such as by securing women's equal right and safety in a society. Regardless of these controversies, it is still important for feminists to identify systems that are potentially both barriers to, and enablers of, women's rights.

The contemporary Ethiopian constitutional mandate, rooted in the globalized democratic practices, has taken modern rights discourses as part of its own development. However, provisions and policies surrounding women's rights still reveal contradictions regarding which rights should be prioritized over others' and by whom. In other words, the ongoing deployment of "ethnicity", "culture", and "tradition" is often used by male elites, and serves others' political purposes rather than attending to women's rights. This creates a gap between the state and women since such reductive views of identities inhibit the possibilities of allowing for women's rights provisions and gender equality. There has to be a space in which feminists or women's rights activists critique, analyze, and expose the contradictions of having an exclusivist and separate constitutional design process that imagines systems that are expected to work together by some magic to grant women equality and dignity.

Therefore, while the advocacy for revision of the Constitution in the interest of women's rights is necessary and should be continued, it would be naive to believe

that changes in the Constitution will guarantee change in our society. There is still feminist work to be done to provide a critical analysis and assessment of the extent to which the existing constitutional and legal framework-have changed the rights and realities of women in their everyday lives. From a feminist perspective this is a crucial task because, based on women's lived experience, the practices and accessibility of this legislation at a societal and communal level often clashes with social and cultural practices that are primarily patriarchal in nature. Such complexities should be explored more to make the legal framework work for women without threatening their everyday life and belonging within their community.

Ultimately, such feminist intervention can only be envisioned and put into practice when women's rights advocates and feminist activists are allowed to engage meaningfully and participate in writing women's rights into the Constitution during the anticipated constitutional reform process by reflecting on problems and proposing solutions that center women's interest, etc. We argue that the reform processes are not always a guarantee for better protection of rights. It is thus important to critically examine how and on what condition would the anticipated constitutional reform process become an opportunity for progress in women's rights. It is also necessary to discern ahead of time the potential enabling and disabling factors that would determine the success of the process in terms of guaranteeing women better protection of their rights.

DISCUSSIONS

Dr. Adem Kassie Abebe

I appreciate this outline of the fundamentals and the observations you made of the system as a whole. I always encourage women scholars to look at each design option in any constitution, rather than simply looking for provisions on women's representation, etc. The question should be how does the system as a whole (be it

federal, unitary, presidential, or parliamentary), with all its systematically designed and implemented decisions, implicates women, rather than looking at representation of women and analysis of provision.

Melhik Abebe

I want to add about "intersectionality". In my understanding the word originated with the best of intentions, but the way it is being deployed, especially in Ethiopia over the past few years, seems to emphasize an attempt to silence women's involvement in grassroots-level politics that is animated by the things that they consider important to both their locality and their own lived experiences. This definitely includes the nationality question or ethnicity. This term has been thrown around frequently by alleged women's organizations or supposed feminists, and this is very evident in how such groups or institutions have dealt with what is going on in the northern part of Ethiopia in the name of intersectionality. I want to underline that it is possible for one to be more than one thing at a time; it is possible to be a woman, as well as Oromo, as well as part of the middle or working class, etc. We should also keep in mind that it is realistic that, depending on the situation, one particular aspect of your identity would be more visible and consequential than the other.

My other point is, if we take the criticism of the federal system that we have now, which is along the lines of the settlement patterns of different ethnic groups, or the assertion that the primary concern or primary organizational principle behind the Constitution does not consider women's interests to its logical conclusion or its logical utopian end, will the goal then become to organize government and political parties along gender lines, hence will we have governments for women, by women? I believe that the reason that constitutions, including the current Ethiopian Constitution, focus on settlement patterns that are along ethnic or linguistic lines is that it is easier to govern people that live in the same area. This is not the case for women as they do not live in only one part of the country and men live in the other. So, we have to think about these things as well. Although this might sound elementary and come off as somewhat dismissive of women's

voices, I am actually a feminist that believes women's voices should be heard and women in different localities have different concerns, all of which are legitimate.

Prof. Adeno Addis

Which women's issues would be left unaddressed if women are included in the nation as a member of that nationhood? I think this: Normally, membership of women to a nationhood and their interests would be presented, discussed, and acted upon. So, women can be members of a nation and can participate; that is true. But what the paper by Tigist and Teguada asserts, I think, is that when women's concerns are being discussed, when the idea of the nation within which everything is understood seem to be threatened by other nations or other groups, then all these other issues have to take second place. We are not talking about citizens not having rights but rather about the priority entrenched within the nations that makes it incredibly difficult for other issues that are experienced from surfacing because there is an experience of people saying, "this is not the time to talk about such issues."

Dr. Abadir M. Ibrahim

First, what sort of amendments would you recommend to improve the current Constitution? I am asking this because I pose the same question to everyone attending this conference in our public and private conversations since we want to talk about solutions as well. Second, as a critique, I would like to point out that there is an unstated premise of your paper. There is an erasure of one of the identity markers of women which is not stated in an outright manner. Women can be members of different linguistic and cultural groups in addition to being women and citizens. To approach this from a different angle, let me highlight what Professor Adeno said about your presentation in a positive light, but I will raise it as a critique. Although this is not immediately apparent from the title of your paper, it is clear that you are trying to critique the nations, nationalities and peoples approach, as opposed to that of citizenship. But your topic is about women's rights and intersectionality which would have led one to think that you would be concerned about the layers of injustice faced by women who belong to

marginalized ethnic and linguistic groups. What you are proposing, however, is an erasure of one of the identity layers of women who identify in a certain way. By ignoring the intersectional injustice these women face, it feels like non-identity-specified citizenship would entail supporting the opposite of what intersectionality implies.

I also do not see the "phased approach" that you are referring to in the Constitution. I am not aware if that is reflected in human rights policies or if it is part of the women's rights literature. If that is the case maybe what you need to say is that there is a phased approach policy or practice and not a constitution. If you remove that unstated premise, if women can validly be members of ethnolinguistic groups, and be ethnolinguistic activists and nationalists while being women, then what I see in the Constitution is a balancing and hierarchy of rights issue rather than a process of phased liberation. For instance, if there is a conflict between women's rights and ethnolinguistic and cultural group rights, then the ethnolinguistic issue may trump women's rights. The Constitution explicitly recognizes women's rights, it explicitly states that they have faced historical injustice, it explicitly recognizes gender-based affirmative action as a remedy, recognizes that women face workplace issues especially because they bear children, etc. Women are portrayed and recognized by the Constitution as laborers with unique needs, as child bearers, as victims of harmful traditional practices, as having equal rights to property, etcetera. It does the same, though in different contexts and ways, for the rights of nations and nationalities as well. This tells me that the Constitution is already in support of, or at least not opposed to, intersectionality.

I wonder if you may be better off critiquing the Constitution's privileging, or even over-privileging, of peoples' rights over other rights including women's rights. I have previously made this argument as well. You will find out that you will face challenges in making even the hierarchy of rights argument as the Constitution does have provisions about protecting women from harmful traditional practices. In practice, there was at least one constitutional case in which women's rights prevailed and I am not aware of ones in which peoples' rights trumped women's

rights. So, though an argument can be made against how there is a risk of prioritizing peoples' over women's rights, you should be open to the possibility that the phased approach might not even be in the Constitution in the first place.

Reply: *Dr. Tigist Shewarega*

Regarding the question on the topic of intersectionality, I understand the popularity of the concept, specifically because of online movements that have been made by certain feminists; it ended up becoming an identity issue as opposed to what it was meant to be, which is about looking at different institutions and structures and how they operate upon each other or how they apply to and influence one another. Considering intersectionality simply from the perspective of identity is the result of on-the-surface analysis that diminishes its true sense.

In our paper we are trying to compare the phased approach observed in the Ethiopian context, since in our observation over the last 30 years the utmost attention is given to the nationality question rather than any other issue in the country. Whenever we have a historical moment where there seems to be an opportunity for addressing other issues, somehow the ethnic issues end up dominating the others. And mostly our academic writing, reading, and thinking exercises are actually more focused on ethnic identity issues, which is why we are stuck on the gender issue. The groups being threatened by the potential addressing of the issues that have taken secondary places—such as gender issues, class, and individual rights issues—have blocked revision of the Constitution to change these circumstances. The question we are trying to address is can we move away from the ethnic aspect of the Constitution and create space where we can address the gender, class, individual, and group rights issues as well as other issues. "Let us first sort out the national crisis that is based on ethnic issues and then we'll come to your issues" kind of conversation should stop.

Considering it from the perspective of marginalized communities, when a woman wants to share a conversation about her concerns, she finds herself in a difficult position because she must first abide by the ideals of the group identity as opposed to their own individual suffering or oppression as a woman. Hence, we should

have a space for these kinds of conversations; this does not imply that women should have government separate from men. For example, consider customary law; if a woman decides that her culture is not treating her as an equal or giving place to her voice and thus wishes to consult a court for divorce, the woman is not permitted to do so and must go back and abide by the customary law. Such kinds of conversations need to be cognizant of how women in such situations are not talking about their ethnicity but also about the social injustices in other aspects. So having this kind of approach will allow us to see where such types of oppressive systems are intersecting and how they impact one's life or a group's life.

Regarding Abadir's question, our paper is about citizenship, although it has not gone into the depth that Prof. Adeno's paper went into; what we are trying to say is: can we have a place for issues other than ethnic issues, such as women's issues? The fact of the matter is women are not holders of identity, or they have been given a secondary citizenship status, because it is this half of the population that does not have a say in the constitutional conversations or even on ethnic issues. For instance, the identity of mothers is erased and has no impact on their children's identities because it is always based on the man. In the wider sense, men have the agency to discuss issues that will determine the trajectory of the nation, whereas women don't. This is the reality in Ethiopia. Therefore, if we do not expand the concept of identity, and especially ethnic identity (as it has a higher weight for citizenship), women will continue to be secondary subjects in the country and will also continuously be rejected in their quest for the social justice they rightfully deserve.

A Dream Within a Dream: Minorities and Indigenous Peoples and Ethiopia's Constitutional Moments

Dr. Abadir M. Ibrahim and Dr. Juweria Ali

Abstract

Given their historic and contemporaneous subordination, marginalization, and brutalization, of minority and indigenous groups can be expected to face tremendous structural disadvantages going into any prospective constitutional (re)negotiation. Unless these disadvantages are recognized and addressed, a constitution-making process is likely to entrench and reproduce current and past inequalities and inequities thereby ensuring their continuity. Ethiopia's Somali population will be taken as a case study of how marginalization of minorities and indigenous groups operates in a constitutional setting where an overlapping and interdependent systems of oppression operate. In addition to an invitation to a serious reimagination of Ethiopia's political future in ways that are truly inclusive and just, preliminary suggestions are made as to how the marginalization of minority and indigenous groups can be minimized by imagining different constitutional reform scenarios.

Introduction

In his "Interpretation of Dreams," Freud presented dreams within dreams as futile attempts to attain aspirations that have been frustrated in real life. These attempts are unsuccessful insofar as they present as dreams even inside a dream.[1] Akin to Freud's dreamers, minorities and indigenous groups in Ethiopia keep waking up into another dream. Even though every constitutional moment presents as an opportunity for a better future, they keep finding their wishes and desires

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[1]   Sigmund Freud, The Interpretation of Dreams 313 (A. A. Brill trans., 1913).

unattainable. Although most minorities and indigenous peoples were treated as no more than serfs and tax resources who sometimes had to be raided periodically as a form of tax collection, many were barely incorporated into the day-to-day administrative reach of the state in the early stages of its modernization.

The Derg, though freeing many from the yoke of feudalism, was the first regime that began seriously intruding into indigenous Ethiopia. Not only did it expand state-led agricultural and industrial projects, but it also intensified nationalist policies that sought to subjugate minorities and indigenous groups and assimilate them into the language and culture of the dominant group. Those who resisted experienced the wrath of its modern, mechanized, and mostly unconstrained army.

The Ethiopian People's Revolutionary Democratic Front (EPRDF), which removed the Derg, came with an even sweeter promise to previously marginalized groups. It promised to make the interests and aspirations of nations, nationalities, and peoples a right placed front and center of the constitutional order. However, the experience of minorities and indigenous groups was at best mixed. The cultures, languages, and traditions of many minority and indigenous groups were now things they could be proud of and formally transform into the languages of local administration and education. At the same time, the EPRDF brought the modern state into every corner of the country, which it claimed for extraction into the global market. This, like the case of the Somalis discussed in this study, created traumatic episodes for many minority and indigenous groups who were given the choice between compliance and systematic violence including war crimes and crimes against humanity.

We will argue that, given the historic subordination, marginalization, and brutalization of minorities and indigenous groups, there is a need for a serious reimagination of Ethiopia's political future in ways that include the dreams of these groups. In fact, we will make the case that Ethiopia needs to reimagine itself, not to be charitable to minorities and indigenous groups, but for its own salvation. The study will take Somalis as a case study and a concrete example of how

marginalization of minorities and indigenous groups operates in a constitutional setting with the understanding that the Somali experience cannot be generalized as the experience of all groups. As one of the larger ethnic and linguistic minority groups in Ethiopia with an estimated population size of around seven million, Somalis provide good example of a group that is situated at the intersection of different marginalities based on language, culture, religion, pastoralism, indigeneity, minority status, and even geography, which all give rise to overlapping and interdependent systems of oppression.

1. The Interpretation of Dreams: A Conceptual Map

There are several concepts to which we will make regular reference in order to theorize the marginalized status of minorities in Ethiopia's constitutional order.

The first of these is a fairly broad understanding of what a constitution is. While also taking advantage of a legalist understanding of constitutionalism, we approach the constitution as something that constitutes society from a political and sociological point of view. We will simultaneously look at the different constitutional moments as processes and outcomes of power distribution (including the distribution of power, wealth, and prestige), the mechanisms of the use of coercion (including through legal and extralegal means), and the different constitutional mythologies that seek to persuade the public of the equitability, desirability, or at least necessity of extant power configurations.

The other set of concepts relate to that of minorities and indigenous groups. The meaning of minorities, a much-debated topic both in academic literature[2] and in international law,[3] is generally understood to constitute nondominant groups that are objectively distinguishable, i.e., that make up a distinct ethnic, religious, or linguistic group, with a subjective desire to preserve a separate identity, and who

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[2] See Steven Wheatley, *Democracy, Minorities and International Law*, 20-23 (2005).

[3] See Malcolm N. Shaw, *The Definition of Minorities in International Law*, 20 Isr. Y.B. Hum. Rts. 13 (1990).

are usually a demographic minority.[4] Rather than demographic size, the factors that make indigenous peoples distinct are that they are groups that are not fully disjointed from their ancestral lands, ways of life, and political-economic institutions by dominant groups with the help of modern economies or states who impose significant levels of discrimination, domination, and marginalization on these groups.[5]

While the struggles of minority and indigenous groups against domination can be iterated in different ways, the international human rights movement contains a good starting point for this inquiry. The designation of a group as a minority or an indigenous group entails certain protections under international human rights law that include the right to exist and persist as a distinct group and be free from discrimination, coerced assimilation, and interference with the use and maintenance of their language, culture, and religion. On the more affirmative side, both also have the right to effective remedies against ongoing discrimination or violence, the right to effectively participate in national politics and to decisions that affect their rights, and the right to benefit from effective measures such as affirmative action to remedy historic inequities.

Besides these overlaps, more specific protections are accorded to indigenous peoples that emanate from the unique challenges they face. For example, indigenous rights go beyond political participation in matters that affect them, including an explicit need for their consent, and the right to their traditional territories including the recognition of land rights and rights over natural resources accorded by indigenous legal systems. More significantly, the rights of

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[4] This understanding is based mostly on Francesco Capotorti, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, (United Nations, 1991) 98 and Jules Deschenes, Proposal concerning a definition of the term "minority," UN Doc. E/CN.4/Sub.2/1985/31/Corr.1 (14 May 1985), para.181. See also generally, Wheatley note 2, and Shaw note 3.

[5] The African regional human rights system, which has a strong baseline for peoples' rights in general, provides a good point of reference for a rounded iteration of indigenous peoples in Ethiopia's context. See the Advisory Opinion of the African Commission on Human and Peoples' Rights on the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the African Commission on Human and Peoples' Rights at its 41st Ordinary Session, held in May 2007 in Accra, Ghana.

indigenous groups go much beyond the right to distinct existence and include the rights to development, self-determination, autonomy, and self-government.[6]

Since the specific rights included under the umbrella of minority and indigenous peoples' rights are quite extensive, no thorough or systematic attempt will be made to outline them here. However, it is worth noting that the extent to which minorities and indigenous peoples are recognized in Ethiopia's constitutive arrangements will be used as a way of gauging how marginalized they are in the constitutional order. As will be shown in this study, the different constitutional moments in Ethiopia have been distinctly deleterious to minorities and indigenous groups. Not only has the modern Ethiopian state exploited and, many times, brutalized many of these groups, minorities and indigenous groups have not received the lip service of recognition in national narratives and myths. While Ethiopia stands in a nightmarish constitutional moment where everything is in flux, the one thing that may prove to be persistent is the exclusion of minorities and indigenous groups who are bound to be excluded by all the major political actors dreaming of establishing hegemony over and through Addis Ababa.

This paper draws upon examples and key constitutional moments in the recent history of the Somali Region which embody these struggles. To do so, we selectively draw upon elements of Foucauldian discourse analysis (FDA). The relationship between power and language is central to discourse-analytical approaches. FDA for instance considers the way "truth" and "knowledge" serve as a site for reproducing power relations through "power-knowledge" regimes. This is because power sustains certain "truths" and sanctions them as legitimate.[7] There are also certain "conditions of possibility" which determine 1) what can and cannot be said, i.e., what is legitimate and what is not, and 2) the power relations

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[6] In addition to *supra* notes 2 through 5, see UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, General Assembly resolution 47/135 (18 Dec. 1992); Human Rights Committee, CCPR General Comment No. 23: Article 27 (Rights of Minorities) CCPR/C/21/Rev.1/Add.5 (1994); the United Nations Declaration on the Rights of Indigenous Peoples, A/RES/61/295 (13 Sept. 2007); and Asbjorn Eide, Final text of the Commentary to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, E/CN.4/Sub.2/AC.5/2001/2 (April 2001).

[7] Michel Foucault, "Truth and Power" in Peter Rainbow (ed.), *The Foucault Reader*, 51–75 (1984).

and systems which determine who has the right to speak on a given subject (and reproduce specific "truths").[8] This type of framing allows us to interrogate how indigenous and minority rights are constituted in the popular national imagination, and by extension, how their constitutional right to particular freedoms is conceptualized.

2. Oscillating between Nightmares and Bad Dreams

The plight of Somalis in Ethiopia stems from and dates back to European colonialism when the Somali peoples were divided between Britain, France, and Italy. The noncolonized segments of the Somali communities were uncontested territories but would later fall under the control of the Ethiopian feudal empire. What used to be broadly referred to as the Ogaden and what is now more or less the Somali Regional State was one of the epicenters of African resistance against colonialism in the Horn Region. At different times, Sayid Mohammed Ábdille Hassan—dubbed the "Mad Mullah" by the British for having the audacity to challenge a global superpower—and his Dervishes set their base in this region and fought off British and Italian colonial plans – probably preventing the colonization of Ethiopia from the southeast.[9] Although Mohammed Ábdille Hassan is considered an anticolonial hero in the Somali territories, including in Ethiopia, his legacy is repressed in Ethiopian historiography and national mythology as part of the marginalization of Ethiopian Somalis.

Save for the Ethiopian imperial/feudal regime's periodic raids against the livestock of Somali pastoralists,[10] the Ogaden region remained outside of any state administration until 1935, when Italy invaded the region; in 1941 Britain assumed

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[8] Michel Foucault, "The Discourse on Language" in Hazard Adams & Leroy Searle (eds.), *Critical Theory Since 1965* (1986)

[9] Said S. Samatar, Oral Poetry and Somali Nationalism: The Case of Sayid Mahammad Ábdille Hasan 91-136 (1982).

[10] Richard Pankhurst and Douglas Johnson, "The Great Drought and Famine of 1888-92 in Northeast Africa," in D. Johnson and D. Anderson (eds.), *The Ecology of Survival: Case Studies from Northeast African History*, 56-57 (1988).

control of the area.[11] The British imperial powers handed over the region to the Ethiopian feudal-imperial regime slowly in the late 1940s and early 1950s,[12] setting the stage for the unique disposition of Somalis in Ethiopia in the years that followed.

Since their forced incorporation into Ethiopia, mostly by the design of colonial Great Britain, Ethiopian Somalis have been suffering at the hands of successive dictatorial regimes who treated the region as a hostile frontier fit only for subjugation and a source of resources such as livestock and, more recently, oil and natural gas. Somalis, like many of their counterparts in Ethiopia, did not tolerate being subjugated whether, that be European colonizers or local imperialists. Thus, similar to their counterparts among the peoples of Tigrai, Gojjam, Bale, Yajju, Wollo, Gedeo, Harar, and Eritrea, the Somalis rebelled against the Ethiopian feudal-imperial regime, only to be violently crushed and subjected to collective punishment.[13] The destruction of the village of Aysha'a and the massacre of 500 of its civilian inhabitants in August 1960—and the killing of 794 people, mostly civilians, in 1972—are just two examples of a systematic campaign of human rights violations, including war crimes, against the Somali people.[14] They also suffered continued forced relocation, mass executions, a campaign of livestock confiscation and killing, and the poisoning of water wells, all aimed at the destruction of the way of life of the Somali people.[15] The violent campaign against the sustainability of their way of life in the 1960s and 70s was paired with a policy of relocating ethnic groups from other parts of the country into the region, which saw the displacement and replacement of Somali people from their ancestral homelands.[16]

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[11]   Stuart A. Notholt, *Fields of Fire: An Atlas of Ethnic Conflict*, 2, 22-23 (2008).

[12]   *Ibid.*

[13]   Saheed A. Adejumobi, *The History of Ethiopia*, 103-104 (2007); Bahru Zewde, *A History of Modern Ethiopia: 1855-1991*, 215-220 (2007); and Gebru Tareke, *The Ethiopian Revolution: War in the Horn of Africa*, 14 (2009).

[14]   Human Rights Watch, *Evil Days: Thirty Years of War and Famine in Ethiopia*, 70-72 (1991).

[15]   *Ibid.*

[16]   *Ibid.*

The plight of Somalis worsened under the Derg junta (1974-1991) which, while overthrowing the much-reviled imperial-feudal regime, continued the former's persecution of the Somali people. During the 1975 famine, the Derg regime interned 80,000 Somalis severely restricting or altogether banning not only their freedom of movement but their right to conduct and participate in traditional cultural celebrations.[17] Following the end of the Ethio-Somali war or the "Ogaden War" (1977-1978), the Derg military regime subjected the civilian population of its Somali territories to years of atrocities, including war crimes and crimes against humanity.

In an extensive 1991 report, Human Rights Watch summarized the atrocities of the military; their practices included the forced relocation of the civilian population into shelters and camps, the destruction of all economic assets (such as villages, livestock, and farms), and the killing of noncombatants outside of the camps. In its scorched-earth campaign, the regime carried out summary executions including massacres, the burning down of villages, aerial bombardment of civilian targets with munitions including napalm or phosphorous, poisoning and bombing wells, and gunning down herds of cattle. While an estimated 25,000 civilians were killed by the military and over a million civilians were displaced, notable single events included a July 1981 incident in which 615 civilians were killed in a spate of violence, and an August 1981 incident in which 300 civilians were killed and "houses were burned and 12 villagers were taken hostage and subsequently disappeared."[18] These abuses were justified and normalized based on the discursive construction of Somali "secessionists" in the aftermath of the 1977 Ogaden War illustrating the interplay between physical violence and discursive violence.

When the Derg military regime fell in 1991, like many Ethiopian peoples, Somalis in Ethiopia had hoped that the replacement of the military regime with the current civilian regime would announce a new chapter in their history. Some of the significant gains achieved included the ability of the Somali people to use their

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[17] *Ibid.*

[18] *Ibid.*, 81-86.

own language in education and government – a significant improvement from previous regimes. Three years after the fall of the Derg, however, the people of the Somali region would once again go through turbulent times. In 1994 a political dispute between the ruling party of Ethiopia (EPRDF) and the Ogaden National Liberation Front (ONLF) led to a forced expulsion of the latter from the government.

Following the EPRDF's establishment of indirect rule over the Somali region[19] and a military confrontation between the EPRDF and ONLF, the pattern of the war crimes and crimes against humanity was set in the Somali region. While human rights violations in the Somali region were taking place sporadically since 1994,[20] the most serious crimes began in 2007 following a spate of ONLF attacks between January and May. The most notable attacks included one against a Chinese-run oilfield where 60 Ethiopian soldiers and employees and nine Chinese contractors were killed, and another a grenade attack, which injured the president of the Somali Regional State.[21] Following these attacks, it is reported that high-level government officials met in the city of Jigjiga (capital of the Somali Region) to discuss the state's response.[22] The meeting resolved that, since the ONLF derived support from the Ogaden countryside, from local trade and business people, and from humanitarian aid, measures needed to be taken to destroy these perceived sources of support.[23] This rationale formalized the policy of collective punishment detailed in Human Rights Watch's extensive 2008 report "Collective Punishment: War Crimes and Crimes against Humanity in the Ogaden area of Ethiopia's Somali Region."

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[19]   See Abdi Ismail Samatar, *Ethiopian Ethnic Federalism and Regional Autonomy: The Somali Test*, 5 Bildhaan: An International Journal of Somali Studies 44, 47 (2008).

[20]   See generally: Tobias Hagmann, *Punishing the Periphery: Legacies of State Repression in the Ethiopian Ogaden*, 8.4 Journal of Eastern African Studies 725, 731 (2014).

[21]   Jeffrey Gettleman, *In Ethiopia: Fear of Army Brutality*, N.Y. Times, June 18, 2007.

[22]   Human Rights Watch, *Collective Punishment: War Crimes and Crimes against Humanity in the Ogaden area of Ethiopia's Somali Region*, 31 (2008).

[23]   *Ibid.*

On June 9, 2007, the Prime Minister of Ethiopia announced the launch of a military campaign in the region.[24] Full-scale military campaign began in June 2007 and saw the re-initiation of war crimes and crimes against humanity as part of the state's military tactics. Aside from the military's counterinsurgency campaign targeting the ONLF, the respondent's strategy included attacks against the civilian population, including massacres, executions, arbitrary detention and torture, systematic rape, forced relocation, destruction of civilian property, and an economic and aid blockade. Not only do these series of serious and massive human and peoples' rights violations amount to war crimes and crimes against humanity, but they have been committed in a manner that has undermined the way of life of the Somali People and violated their rights to self-determination, including their rights to development and the free disposal of their natural resources.

3. The Current Constitutional Baseline

3.1 The formal legal system

The Somali experience, one of the more extreme examples of persecution against a group that lay at the intersection between minority and indigenous status, is indicative of the constitutional arrangements that these groups have faced and are likely to face in the future as well. This means that they are the most likely to face exclusions from power under either authoritarian or democratic political settlements. Inasmuch as the state is interested in the natural resources they sit on, whether that be the oil reserves in the Ogaden or future industrial, agricultural, or dam-building real estate, it will take these without consideration of the rights or interests of these groups. While one can imagine that the state will rely on local agents to enforce its will and in the process distribute rent to local agents, given

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[24] Elias Kifle, *Ethiopia: The Woyanne dictatorship 'launches crackdown' on Ogaden rebels*, Ethiopian Review, June 9, 2007; Biniam Haile, *Insurgency in Ogaden*, Boston University School of Theology Archives, 15 February 2009.

the power differential between nonminority and nonindigenous elites, it is unlikely that the lion's share will go to the lion.

The disempowerment—and probably also the persecution—of minorities and indigenous groups is likely to continue if Ethiopia goes through a national dialogue or any constitutional convention type of process since current power structures are likely to reproduce themselves in such a process. While a constitutional future that is erected upon unwritten power configurations does not bode well for minorities and indigenous groups, the positive laws of Ethiopia—which are one of the ways we could take a snapshot of the state of power relations—do not provide a strong starting point either. If we look at the FDRE Constitution and other federal laws, neither minority rights nor indigenous peoples' rights are recognized. In fact, the FDRE Constitution and other laws such as the 1960 Civil Code specifically repeal or bar the application of customary legal systems which survive to the extent that "positive laws" are not enforced.[25] This, among other reasons discussed below, will present significant hurdles to negotiations over the social contract. Unless measures are taken to center the rights of minority and indigenous peoples, this is likely to lead to a constitutional settlement that extends and reinforces structural disadvantages, thereby ensuring future inequities.

Out of the two, minority rights may have a better chance of protection as there are some elements in the legal and societal structures that may make it relatively easier to assert them. Prominent among these is the FDRE Constitution's reservation of a minimum of 20 seats for minority ethnic groups in the House of Peoples' Representatives.[26] The composition of the House of Federation, sometimes rather tenuously referred to as the second chamber of parliament, may also provide minorities occasional counter-majoritarian opportunities to weigh in on constitutional cases.[27] The fact that Ethiopia is a party to a number of human

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[25] See Art. 9(1) of the FDRE Constitution and Art. 3347 of the Civil Code.

[26] Art. 54 (2) and (3) of the FDRE Constitution.

[27] The House, in theory, is imagined to be composed of at least one member of each ethnolinguistic group, and each group also gets one additional representative for every million members of that group. (Art. 61 [2] of the FDRE Constitution).

rights treaties that recognize minority rights[28] may also work in favor of minority rights advocacy.

Another factor that may be protective of minority rights is the fact that some minority groups have "home states" in which they retain formal political power and in which they may be demographic majorities. While this will give these minorities a baseline protection against being overrun by majoritarian or dominant group politics at the center, it is also a factor that comes with serious challenges.[29] Taking only the Somali Regional State (SRS) as an example, one can see how the adoption of a Westphalian nation-state model as a hyper-privileged embodiment of Somali-ness does not account for the diversity within the Somali traditional communities or the interests and aspirations of Somalis. The nation-state model, being ill-fitted to accommodate the lived experiences of Somalis and other neighboring nomadic communities, can cause and has also repeatedly caused tension and conflict—including armed conflict—with neighboring states and communities, including those crossing international borders. This arrangement additionally excludes exogenous minorities and a heterogeneous mix of urban dwellers, creating a vicious circle of marginalization.[30] Therefore, despite the pro-minority benefits of the creation of minority-based states, the utilization of these advantages, even if they can be realized, can be fraught with risks.

Whereas the Constitution's lack of a prism that sees minorities as a distinct grouping with characteristics and needs that emanate from their minority status will pose enduring challenges, a combination of the challenges outlined above

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[28] While the International Covenant on Civil and Political Rights (Art. 27) and the African Charter on Democracy, Elections and Governance (Arts. 8 & 43) are the most straightforward examples, most human rights treaties have also been interpreted in light of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities as providing layers of protection specific to minorities.

[29] Many of these challenges are outlined by Solomon A. Dersso, *Taking Ethno-Cultural Diversity Seriously in Constitutional Design: A Theory of Minority Rights for Addressing Africa's Multiethnic Challenge*, 213-215 (2012).

[30] Note that although some state constitutions recognize the existence of minorities, not all of them do so.

could present unique opportunities. One of the most significant factors in favor of minority rights could prove to be the fact that most cultural, linguistic, religious, and other groups in Ethiopia are a minority somewhere in the country. This is true for ethno-linguistic minorities as well as religious minorities and, more significantly, it is true for all the sizable ethnolinguistic groups as well. This does not only mean that most groups have pragmatic reasons to accept minority rights, but many will also have lived experiences that make it easier for them to empathize with and support minority rights. Out of these, the most consequential may be the urban dwelling bureaucratic and trading elite which already includes dominant groups and may become more consequential if it grows in heterogeneity. Although one wonders if heterogeneity is going to survive given current trends, in which ethnic cleansing is becoming an expected part of politics, reimagining Ethiopia in a minority-oriented manner is not only possible, but is a vision that could take the country out of its current conundrum, for which dominant-group competition is to blame in significant part.[31]

The legal and institutional baseline for the rights of indigenous groups is quite dim even in comparison with minority rights. Although Ethiopia is as bound to respect indigenous peoples' rights as much as minority rights from a legal point of view,[32] indigenous peoples' rights have no comparable baseline in the Constitution or in treaties that Ethiopia has ratified. The current constitutional and sub-constitutional understanding of the devolution of power, if properly implemented, can only result in administrative decentralization that excludes or erases indigenous-specific needs for self-determination. This will make it easier for the government to take a denialist position, a position which it has already

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[31] An early glimpse of the possibly of cross-ethnic politics was seen in the 2005 voting patterns. Leonardo R. Arriola, *Ethnicity, Economic Conditions, and Opposition Support: Evidence from Ethiopia's 2005 Elections*, 10.1 Northeast African Studies 115 (2008). However, this trend could have been unsustainable, similar to the more recent "Oro-Mara" alliance which crumbled after the defeat of a common ethnically specific adversary.

[32] See Tilahun Weldie Hindeya, *Indigeneity of Peoples in the Context of Ethiopia: A Tool in the Pursuit of Justice Against Land Dispossessions*, 27 African Journal of International and Comparative Law *passim* (2019); Bahar Abdi, "The Emerging International Law on Indigenous Peoples' Rights: A Look at the Ethiopian Perspective" 38-65 (LLM Dissertation at the Faculty of Law, Addis Ababa University 2010).

taken repeatedly,[33] and make it more difficult for indigenous peoples and their allies to engage in strategic litigation and public advocacy. In addition, the fact that dominant groups in Ethiopia, including those in regional and federal power and in the NGO sector, subscribe to the idea that "we are all indigenous" makes it unlikely that indigenous rights and interests will find visibility. This is likely to be true even among co-ethnicists in the regional governments who could have interests that are inconsistent with indigenous groups and may even foster views that consider the indigenous way of life "backward".

3.2 Looking beyond the law

Even though the Constitution is superficially in favor of self-determination, indigenous groups are excluded from benefiting from even that aspect of the Constitution, as it has been interpreted in ways that exclude indigeneity.[34] In fact, one could argue that the government has a partially formalized relationship with indigenous groups that is comparable to colonialism in terms of the chauvinistic discourses that traditionally accompany colonialism. For instance, in addition to constructing the land of indigenous peoples as "barren," "unoccupied," "empty," and "unpopulated," it characterizes these groups as "backward in terms of civilization," "primitive," "naked," and "unsustainable."[35] There is nothing in the current transition, nor in any potential future constitutional processes or projections of future trends, that indicates that the commodification and marketization of the land and other resources of indigenous peoples—and therefore the marginalization of and violence against these groups—is going to stop.

The national narrative of minority rights and recognition is encapsulated in the core principles of "self-determination." The constitutional recognition of rights did little to alter the marginalized status of subject peoples in terms of power

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[33] *Ibid,* at 4-7.

[34] See also Hindeya, supra note 32, 366-382.

[35] Abadir M. Ibrahim, *Ethiopia's "Revolutionary Democracy" as an Authoritarian-Neoliberal Discourse,* 12.1 International Journal of Ethiopian Studies 17, 21, 26-27 (2018).

relations pertaining to political power and representation, knowledge production (relating to people, place, history, etc.), and state attitudes towards its poorly incorporated peripheries. Minority peoples' lack of association with what Christopher Clapham refers to as Ethiopia's "legitimizing myths of nationhood"[36] underlines the repressed elements of minority culture, history, and other elements of their self-identification in the national space. Beyond legal conceptualizations of minority status in Ethiopia's constitutional order and the forced institutionalization of Ethiopia's "legitimizing myths of nationhood" sanctioning them as legitimate, the repression of alternative modes of being "Ethiopian" constitutes a form of epistemic violence (i.e., violence exerted through knowledge) which accompanies the physical violence outlined above.

Through popular state-sponsored discourses, the Somali region continues to witness the construction of epistemic frameworks centered on particular histories, symbols, and myths that serve to reproduce systems of domination. Examples include:

- The struggle over "Karamardha" in relation to the wider history around the 1977 Ogaden War and the state's attempt to undermine the history of local liberation.

- "*Shirkii Kali*"—the 1940s Kali Conference: the EPRDF government institutionalized the narrative of the Kali Conference, which held that, in a meeting with British administrators, Somali elders consented to join Ethiopia shortly before the transfer of territories. Elders have rejected this history as one invented to symbolize Somalis' acceptance of Ethiopian rule and that have stated no such conference took place anywhere.

- The Jeexdin area containing natural gas and oil reserves is framed by the state as "unpopulated" and "empty," but full of resources and in need of development.

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[36] C. Clapham, Controlling Space in Ethiopia, W James (ed.), *Remapping Ethiopia: Socialism and After*, 11 (2002).

Despite the provisions of the Constitution, sovereignty over history, symbols, and myths, even if these elements cannot be placed neatly within the state narrative, has constituted an additional struggle for minority peoples.

4. Preparing for a Better Dream: Some Concluding Observations

As Ethiopia plummets through another dark episode of its history, minorities and indigenous peoples seem to be set to wake up into another dream—or another nightmare. Their baseline is certainly not an enviable one. The constitutional and legal systems, except for recognizing minorities in passing, mostly deny their unique needs and circumstances. In the case of indigenous groups, their mere existence is not recognized as a legal category that requires differential treatment or specialized protection. Although they have functioning political and legal systems these are also made invisible by the formal system that operates as if they do not exist. Indigenous peoples are constructed as "uncivilized" people whose ancestral lands, effectively *terrae nullius*, are to be appropriated and placed under the stewardship of "civilized" Ethiopians. Extreme violence is meted out to both minorities and indigenous peoples who fail to see what is "good for them" and resist the vision of the state.

A reconfiguration of the structures of inequity that minorities and indigenous peoples face can take a combination of three different forms. A best-case scenario may be one in which Ethiopia takes a turn toward minority rights and is reimagined in ways that may even help it transcend its subordination to a dominant-group competition for control of the center and domination of the peripheries. This scenario, which requires dreaming big, is not only unlikely in the short term but it is one that requires additional inquiry. We invited conference participants to opine on what an Ethiopia that is a nation of minorities, and/or one that centers indigenous peoples as an important part of its identity, might look like. We would like to leave this question open and invite readers to pick this topic up and develop additional work on it.

A second scenario is one in which a prospective process of national dialogue, a constitutional assembly, or a peace-making process bears an outcome that recognizes the unique vulnerabilities of minority and indigenous groups and reconfigures the structures of subordination, marginalization, and brutalization. This scenario can also be seen to include one where there is a process that is led, or even commandeered, by an authoritarian regime, a process with different levels of participation from nonruling political parties and nonstate actors. A third scenario is one in which the situation of minorities and indigenous groups is improved, say through legislative and institutional reform, even if formal constitutional changes are not made.

Given the gravity of the challenges faced by minorities and indigenous peoples, either of the last two scenarios, but especially the third one, will require the establishment of specialized mechanisms that focus specifically on the interests of minorities and indigenous groups. This, for example, can take the form of the establishment of a special committee or body within a national dialogue process to investigate their interests. Groups among minorities and indigenous peoples focused on ministries and state bureaus, and specialized mechanisms within National Human Rights Institutions (NHRIs) can also be established if serious constitutional processes do not take root. Some general pointers as to what issues such bodies ought to consider under both scenarios are discussed below. Under the second scenario a specialized mechanism may take the form of a committee or a special rapporteur tracking processes of national dialogue, a constitutional assembly, or a peacemaking process to report on and advocate for minority and indigenous interests and rights.

One of the insights that comes out of this study is that special attention needs to be accorded to the continuum of political power relations and discourses. Given the current political context, it is especially important to pay attention to anti-minority and anti-indigenous discourse in political and social settings. Ethnicist hate speech, ideologies of ethnic and national superiority, hatred, contempt, discrimination, violence, ridicule, dehumanization, essentialization, and othering have always been a big challenge and they are acute today; they are also not things

that will disappear on their own. The cessation of the current normalization of ethnic violence that reaches the level of war crimes and crimes against humanity ought to be a priority for the government and all political groups in the country. This should be taken as a starting point rather than an outcome of any constitutional process.

Another important starting point is the explicit recognition of the existence of minority and indigenous peoples and their rights. Given the current lacuna in this regard, this may require a recognition at the beginning of a constitutional dialogue, an amendment of the federal and some state constitutions, and recognition through state constitutions and subsidiary legislation at the federal and state levels. Specific areas that require attention with respect to indigenous groups include a recognition of indigenous peoples' legal systems—and especially their regulation of indigenous land rights—and closer regulation of agricultural and extractive industries that constitute the new frontiers of assault against indigenous rights. These types of legislative measures are not going to be easy to achieve as, given the current marginality of minority and indigenous groups, they are going to require a great deal of advocacy, as one cannot expect dominant groups to easily give up their current privileges. Nonminority interest groups are also going to strongly advocate for a future in which majoritarianism, and especially ethno-linguistic majority domination, is the norm.

While this paper will not outline what an advocacy campaign could look like, one that is worth mentioning is the leveraging of the international human rights norms that protect minority and indigenous rights, and which are already legally binding in Ethiopia. A specific treaty Ethiopia ought to ratify is the ILO Convention No. 169, which will make the legal entrenchment of indigenous peoples' rights more straightforward. More generally, Ethiopia can achieve a great deal by acceding to the Protocol Establishing the African Court on Human and Peoples' Rights and the Article 34(6) declaration therein, accepting the competence of the African Court to receive individual communications under

Article 5(3) of the Protocol.[37] A case could also be made for Ethiopia's accession to the first optional protocols of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.

In addition to contributing to the overall human rights context by, for example, bringing technical human rights jurisprudential advances to Ethiopia and backing up an embattled judiciary, signing up for these international judicial and quasi-judicial processes can give some buoyancy to minority and indigenous rights, which are already considered to be part of international human rights law by these bodies. Although most unlikely—and although one may doubt the utility and the deterrent effects of post-atrocity procedures—signing up to the Rome Statute should also be something that should be considered or even encouraged. With the types of atrocities that were carried out against the people of the Somali Regional State in 2008-2018 now so commonplace, and with the normalization of hate speech amongst most political actors including the federal government, minority and indigenous groups will remain vulnerable in the years to come. Accession to the Rome Statute will at least signal a symbolic willingness to start a new chapter in which war crimes and crimes against humanity are going to be de-normalized.

DISCUSSIONS

Dr. Kalkidan Negash Obse - Discussant

The paper is fascinating; I am not expert on Somali region, but it has been a learning experience on the subjugation and persecutions of the Somali people under successive regimes in the country. I have a couple of questions. First, the paper states that the Ethiopian Constitution does not cover minority rights and

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[37] Note that Ethiopia has already signed this Protocol on 9 June 1998, but it has neither made an Art. 34 (6) declaration nor ratified the treaty. Thus, this treaty's ratification has been pending for twenty years even though Ethiopia played an important role in hosting the meetings that led to the establishment of the African Court and the Court was subsequently based in Ethiopia for the first year of its existence.

indigenous rights. I want a little bit of elaboration and explanation from you on this, because, we have Article 54 of the Constitution which provides that minority ethnic groups will be allocated a minimum of 20 seats in parliament. If you take this provision, minorities have a minimum position in the constitutional framework, but arguably the entire constitution is about minorities; we have the rights of nations, nationalities, and peoples to self-determination including secession, which arguably might go beyond the minorities' rights framework recognized under international law. So where exactly is the problem from the constitutional perspective? The Somali people are and can be considered as nation, nationality, and people as provided under Article 39 of the Constitution. With that comes all the rights accorded to the nations, nationalities, and peoples under the Constitution. The 20 seats in the parliament reserved for minorities can also be considered as an additional guarantee.

Another question relates to a very legitimate concern you raised that minority rights and voices may not be adequately accommodated in future political settlements in Ethiopia or in a national dialogue process. I find this concern, if legitimate, a bit pessimistic. What recommendations do you have to ensure that minority interests and voices are really accommodated in a national dialogue process or in a future political settlement?

You discuss the experiences of the Somali people—subjugation and persecution under successive regimes—but you stopped short of the EPRDF and you do not discuss the current situation. Some commentators and observers of the Somali region seem to paint a rosy picture of the political situation after the appointment of President Mustafa. I want you to say a few words on the positive developments, if any, in the Somali region under the current government.

Dr. Mohamed Dejen

I think the dichotomization of indigenous and nonindigenous is very problematic in Ethiopia. There has to be a legal framework determining who is indigenous and who is not and granting the rights emanating from this status. For example, take the case between Anuak and Nuer in the Gambela region. One regards the other

as newcomer and occupier of its land. The federal Constitution does not provide any criteria for this purpose; it simply says regional states or zones can be established on the basis of identity, language, and the consent of the people; history (who settled first) does not matter according to the constitutional architecture. If so, how can we qualify someone as indigenous and grant rights special to this status?

Fowsia Mohammed

Additional points on the presentation by Abadir and Juweria: I would like to note that there has been deliberate and historical erasure of the Somali people in mainstream Ethiopian thinking, so much so that at some point I was asked by several former American diplomats whether there are Somalis in Ethiopia. The state has deliberately hidden what has been happening in that large region from the international community. It is only after 2007 that the international community came to know about what happened in the region. So there has been a deliberate state denial of what was happening to the Somali people in Ethiopia. So there has to be a way to bring the Somali people into the Ethiopian mainstream political discourse. We need also to have a transitional justice that accounts for what Juweria described as epistemic violence because it is real, you can see it physically. There has been scorched-earth policy under Meles Zenawi's leadership: entire villages being burnt and people being displaced (there were seven or eight episodes of people massively fleeing and getting displaced) in that region. Moving back and forth to a refugee camp and being a displaced person is a lived experience of the people in the region. When the diaspora Somalis started to advocate for victims, their family members were targeted by the government. The latest victim was President Mustafa's brother, Engineer Feysel killed under Abdi Ille's regime. When I came to Ethiopia in 2018, I spent three months apologizing to my relatives for the harassment, intimidation, and inconvenience they endured in the hand of the government because of my advocacy while I was abroad.

Since 2018, things are getting better in Somali region in the sense that now you are not taken out of your house in the middle of the night by state security forces. But I am afraid this may not last long; the situation is fragile.

The challenge to all of us is implementing transitional justice that is contextually appropriate in the Ethiopian national discourse and addresses the realities and lived experiences of peoples of Gambela or Somali regions. Where are we going and how can we reconcile what has happened in the past and still happening?

Dr. Zelalem Mogessie Teferra

You said that Ethiopia is a country of minorities. I think we should have conceptual clarity on who is a minority: are we talking about numbers or historical injustice, and in which place (geographical area) are we defining who is the minority? Is it in a specific region like Oromia, or in cities like Addis? In my view, Ethiopia is a country of majorities, a country of minorities, a country where majorities live as minorities and minorities live as majorities, or minorities which seek to be treated as a majority. In Harari region, Amaharas and Oromos are majorities, but they live as minorities; Amharas in the Oromo Special Zone of Amhara Region live as minorities. We need to come up with a new conceptual articulation of who is minority in Ethiopia. I am not sure if we can take the general Ethiopian population as a reference point to define who minority is. Maybe we need also to look at historical injustices. For example, Tigray has been dominant in the political landscape of Ethiopia historically, do we consider them minorities or majorities? So, we need to probably reinvent the wheel here when it comes to the definition of minority.

Regarding indigenous rights, we have to be very careful in defining who is indigenous and we have to also see it from the perspective of the rights of citizenship and how the two can be balanced.

Melhik Abebe

The protection of minorities is something we should work on. I think we need to make a distinction between different kinds of minorities. The first is minorities without constitutionally recognized ethnic homelands within the federal system; they need protection. The other group of minorities affected in a different way are numeric minorities, minorities who have homeland region but live outside their homeland (in another ethnic group's homeland). In the last few years we have seen a lot of victimization of these minority groups. The other category of minorities is those who have homeland regions but are neglected to the extent that the federal government considers them only when it comes to the exploitation of their natural resources; this is the case for Somali but also other regions which the federal government refers to as ታዳጊ ክልሎች (*tādāgi keleloče* or emerging regions) including the Afar, Benshangul, and Gambela regions. I think there is value in considering these different classes of ethnic minorities so that we can design solutions that work for them best; they have unique circumstances but they are all minorities. I think there is a gap in the Constitution in addressing this problem and there is a lot of work to be done in this regard.

Dr. Semir Yusuf

The most important contribution of the presentation by Juweria and Abadir is epistemic, beyond and above institutional dynamics and constitutional issues. First, it localizes our understanding of the problem. We Ethiopians pride ourselves for having jealously protected our sovereignty over the last couple of centuries without noting the forceful subjugation of other ethnic groups in the Ethiopian state. Being mindful of the forceful subjugation of other ethnic groups in the Ethiopian state entails empathizing with the "narrow nationalists" in Ethiopia, the so-called terrorists, because they have quite similar views to many of us when we describe our proud nation that fought against European colonization.

The second importance of the presentation by Juweria and Abdir is that it demonstrates the depth of the national question. Here the national question is not to be treated as a matter of constitutional amendment or through the redefinition

of state institutions. Basically, it is a matter of reimagining the foundational myth of our country: how does the state perceive itself and how is it perceived by those on the margins of the state or the state's territory. So, it is a kind of antidote to what we have been talking about consociationalism and accommodation; we have to go beyond these solutions and reimagine the nation itself, its foundational myth, its symbols, and the very idea of being an Ethiopian.

Dr. Solomon Nigussie

On the issue of minorities, the Somali Region is relatively homogenous compared to Benishangul and Gambela. How can we apply the analysis on the situation in Somali for other regions? In all of our analyses we very much focus on the failures that we witness in this country. I think the point should be: how can we build a state on what we have achieved? Is Arat Kilo always responsible for all the failures in the regions? How about intra-region dynamics? This requires a genuine assessment. The minority issue is one of the grand issues that the federal system has to work on.

Dr. Sisay Alemahu

President Mustafa recently said, "our approach of claiming the center is working." Do you think claiming the center would be the solution for the real problems in the region?

Reply: Dr. Juweria Ali

Yes, Somali Region is very stable currently in comparison to major parts of the country, but it is peaceful not because there is systemic change. The region is peaceful maybe because of Mustafa's personal charismatics or because he does not have political competition; had he faced a political challenge or internal political uprisings he could have responded in a different way. Would there be anything that could prevent Mustafa from behaving in a different way if he wanted to? The answer is "no" because there have not been significant changes in the institutions

in the region, including the judiciary and the security. That the region is peaceful is pure luck.

With regard to Mustafa's claim of "we are at the center," yes there is the political visibility of the elites from the region at the center, but I do not think that political visibility will change the condition of the people in the region. You know there were many Oromo representatives at the center during EPRDF, but we remember what happened to the Oromo people. I do not think the situation of the people in the Somali region will change because of the visibility of one or two political elites at the center. And the whole idea of our presentation is to look beyond what we have, like political posts or the kind of peace that we have now … we are looking at the discursive, epistemic ... and I do not see any changes in attitude to the region or its people. A good example of this is the intentional depopulation of the vicinity in the Region where oil and gas reserves have been found. I think the oil and gas production issue is going to be a huge problem; I am afraid it will be the biggest symbol of negative peace in the region. It is an issue that the authorities pay close attention to, as evinced by the detention and interrogation of a journalist in 2020 for his investigation into the oil and gas issue.

Reply: *Dr. Abadir M. Ibrahim*

Many of the questions raised by Kalkidan are addressed or anticipated in the paper itself or will be addressed especially since they have now been pointed out by him. One thing I will say to Kalkidan is: yes, the question of nations and nationalities is addressed in the Constitution, but the problem is that the Constitution, which defines nations, nationalities, and peoples in a very specific way and context, does not address the issue of minorities, for example. When we talk about minorities we are talking about historic context: the context of power, of counter-imposing them with dominant groups vis-à-vis nondominant groups. So, there is a lot of nuance and detail that is lost when you are just looking at nations, nationalities, and peoples without taking on a power-relations and, therefore, a minorities lens. Maybe we need to flesh these things out a little bit more in the paper in a way that anticipates your question.

Mohammed and Zelalem, you raised a number of issues which our paper is not designed to cover; our paper is not about whether Agnuak or Nuer are indigenous or not or whether Tigrayans are minorities or not. But here I will get into those points because I want to make important points about the issues you raised, and I will also use it to make one of our initial points. Agnuak and Nuer are indigenous groups. I can assume that there are going to be Agnuak and Nuer individuals who are not indigenous. But when we talk about indigeneity or nonindigeneity in our paper, it is not in the way we use it in everyday language in Ethiopia especially in the context of "indigenous" versus "highlander" in some regional states. This use overlaps with how we define indigenous groups in our paper, but it is also primarily a reference to ethnic identity, as a nonindigenous person who is Anuak or Nuer can self-identify as indigenous and call another person a highlander to signify their ethnicity. The point I want to make using this opportunity is: The fact that Ethiopian lawyers, including human rights lawyers like myself, are not familiar with indigeneity as a legal concept or otherwise tells us a lot about the invisibility of indigenous peoples in Ethiopia. We do not even know what the definition is and you will easily find human rights lawyers who will say we are all indigenous or it doesn't apply to our country.

With regard to Tigrayans, to address Zelalem, the pre-2018 situation in Ethiopia is an essential part of the reason why international law on the rights of minorities does not include dominant groups in its definition of minorities. "Dominant groups" can be controversial from the point of definition, but when a group is in power you cannot regard it as a minority and accord it protections that are typically reserved for minorities that need special protections from the majorities in power. But post-2018, I will contend that we can certainly define Tigrayans as a minority, and not just a minority that is not in power but a minority that is emerging from one of the most violent atrocities in the history of Ethiopia.

To Zelalem and Melhik, yes, Ethiopia is a country of majorities, minorities, and indigenous groups, and a country of dominant groups of Muslims, Christians, women, and men. We have noted that in our paper and thank you for pointing that out. And I want to state that, as Solomon said, the Somali Regional State is

itself composed of indigenous Somalis, nonindigenous Somalis, Afars, Oromos; there are groups that speak both Afaan Oromo and Af-Somal; the complexity goes on and on. There are border issues with Afar and Oromia with Somalia, Djibouti, and Kenya which add to that complexity, making the region we are dealing with an international matter. So, we are not losing sight of that complexity.

Regarding Dr. Solomon's question, we are not saying that nothing has been achieved in the Somali region. We are trying to introduce some of the complexity of the region into the constitutional conversation. We are not saying that all things are bad for indigenous people or nothing good has ever happened for them. We are arguing that during Menelik, Haile Selassie, or even the Derg, indigenous peoples might have been marginalized in certain ways; yet some activists from these groups say that despite the margination, in certain ways, they had it better back then. They say that since the state never came to us and there were no Kebeles in our area, we were living indigenous ways of life and indigenous laws were being applied. It is today that the Ethiopian state has reached us and war crimes are being committed against us. But at the same time, we now see the education system and the court system accepting and using our language and promoting our culture, and our children are no longer prevented from getting government jobs in their own land, etc.

Finally, I would like to point out that one of the contributions of our paper is methodological. Let me exemplify this by a personal experience, a story about telling a story that I had experienced a few years ago. I was talking to an Ethiopian, probably an Ethiopianist, who was a prominent pro-democracy advocate. He was unaware of the atrocities that Juweria was presenting here. Being a pro-democracy advocate, he ought to have known of the war crimes and crimes against humanity committed in the late 2000s in the Somali Regional State.

Anyway, I started telling him stories of repression and violence, and while I was in the middle of describing the rape of hundreds of women, he interrupted my storytelling with "but, but, but, those people are secessionists." He was not a government official or someone in power. He was, in fact, an individual opposing

the government and committed to exposing the government's human rights violations. But not only was he unaware of this big chunk of human rights history that took place in this marginal space—and despite knowing so much detail about other places—he still had internalized a readymade narrative that automatically stopped him from listening to the story of suffering I was telling. Everything I had to say about them was about "those people," which shuts down even his ears. This kind of epistemic violence is not captured by legal methodology. The law is still important, it encapsulates and captures power relations and has a self-reproducing capacity. The problem is that the legal methodology that focuses on legal provisions captures only a fraction of the story and cannot be used to explain the lived experiences of the communities. This is especially true in the case of Ethiopia, which has really good laws—including a pro-rights Constitution—that are not respected. There is another set of unwritten rules that are consistently and predictably implemented, and everyone knows about them—everyone knew what would happen if you spoke against the government, if you didn't pay a bribe when arrested, etc. So, why should lawyers be unable to capture some of that reality? This was an issue I tried to play around with using a combination of legal realism and some sociolegal approaches to law. My collaboration with Juweria has brought an epistemic framework that may be able to capture the reality and lived existence of minorities and indigenous groups.

A Federation Without Federal Credentials: When Politics Trumps Law

Dr. Yonatan Fessha

Abstract

This paper discusses how federalism in Ethiopia has eventuated a dominant-party state. For any observer of Ethiopian federalism, it is clear that there is a wide gulf between the Constitution and the practice. Contributing to the lukewarm attitude towards constitutional federalism is the fact that the country, even after the adoption of the Constitution, has not seen the emergence of independent social, economic, and political forces that champion vertical constitutionalism and challenge the constitutionality of government actions. A few years ago, hopes were high that true federalism might finally arrive in Ethiopia. The government introduced a series of political and legislative reforms that suggested that the days of pseudo-federalism might be a thing of the past. That may no longer be evident. Today, it is not clear whether the country is capitalizing on the early reforms of 2018 or relapsing into its days of federalism without federal credentials.

Introduction

Many of the contributors of this volume focus on federalism-related issues. Moreover, they do not dwell on uses of federalism beyond the accommodation of diversity. This is despite the fact that this volume is about constitutional issues more broadly. The constitutional discourse in Ethiopia is reduced to federalism. This should not be surprising; I am also a victim of that bias. But my focus is not on the federal design and its impact on the accommodation of diversity. My paper focuses instead on the operation of the federation. My argument, which is not new,

is that we might have a federal constitution, but we are not living in a federation. What we have in Ethiopia today is a federation without federal credentials.

Let me start by outlining what the Constitution promises in terms of the federal system.

1. The Promise of a Robust Federation

The picture that emerges from a reading of the Constitution is one of a dynamic and robust federation. The Constitution promises a model of federalism that features strong autonomous subnational units. For any keen observer of Ethiopian federalism, however, that is far from the reality: "state governments are expected to conform to decisions taken at the federal level. In many cases, states simply copy federal policies, including the Constitution. Federal development programs are also replicated. Government reforms are usually first implemented at federal and a little later at state level."[1]

The gap between practice and what the Constitution promises casts serious doubt on the federal qualities of the federation. Why is this federation functioning as a centralized system?

2. Federalism in a Dominant-Party State

In the past, the centralized manner in which the federation operated was, to a large extent, a function of the fact that it was a federation operating under a dominant-party state. To be precise, there is no direct correlation between a dominant-party state and centralized federations. The fact that one political party controls the federal government and the states is not necessarily concomitant with a centralized federal system. A dominant party that is itself decentralised and

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[1] Yonatan Fessha, "A Federation without Federal Credentials: The Story of Federalism in a Dominant Party State" in Charles M Fombad and Nico Steytler (eds.), *Decentralization and Constitutionalism in Africa* 133 (2019).

committed to the values of federalism can leave ample room for its subnational branches to develop political structures that defend and advance subnational interests.

But EPRDF followed a very centralised decision-making process that was guided by the principle of "democratic centralism." There was a strong level of alignment between the party structure and the governmental structure.

Democratic centralism has been dying slowly. Although the ruling party has transformed itself into a single national party, this has not translated into a federation that is ruled by a coherent and cohesive party. In fact, the country did not see the level of intergovernmental disputes that it is currently witnessing even during the days when the ruling party was, at least formally speaking, a coalition of four parties that controlled four state governments. In the absence of a coherent and cohesive party structure, the federal government has relied on its blunt coercive powers to direct state governments. In the present moment, it is not uncommon to hear the federal government sending the national army to the capitals of state governments to achieve its goals.

In addition, the federal government—both today and in the past—employs various mechanisms to ensure that state governments toe the line of the national government.

2.1. Advisers or "kingmakers"

In the early days of the federation, the federal government ensured that state governments follow the line of the national government by dispatching the so-called advisors to the states from the Regional Affairs Bureau of the Prime Minister's office. The role of these advisers was not "described in official decision-making documents."[2] They did not have formal political authority, but they

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[2] *Ibid.*

exercised considerable influence over the internal political affairs of state governments.

Around 2001, a federal ministry was established with a mandate to regulate federal-state relations: the Ministry of Federal Affairs (MoFA). The Ministry continued the practice of deploying "technical advisers" to the country's "peripheral regions." In many respects, their mode of engaging with state governments has not changed. What has changed, however, is that the MoFA no longer stations advisers in the state capitals on a semi-permanent basis. Instead, advisers "regularly shuttle between their headquarters in Addis Ababa and the capital of the respective regions."[3]

However, I believe the federal government no longer uses these mechanisms to direct state governments. If they are used, at least they do not feature prominently. The Ethiopian state no longer has a cabinet position resembling or having the same stature as the MoFA. It has been reduced to a desk or a department within the Ministry of Peace. At the same time, the federal government continues to use other mechanisms to ensure that state governments follow its directions. Some of the mechanisms are old; some are new.

2.2. Acting under dictation

When the federal government does not rely on deploying advisers, it undermines vertical constitutionalism by dictating to state governments what policies and laws they should enact and what actions they must take. As you might know, dictation occurs when subnational governments are not exercising powers on their own accord but rather doing so according to the instructions of the national government or the ruling party. In these cases, the real decision maker is not the subnational government but rather the national government or the ruling party.

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[3] *Ibid.*

In the past, a good example of state governments acting under the dictation of the federal government consists of a major reform that affected the federal nature of the state. The federal Constitution focuses on the division of power between the federal and state governments and says little about the power of lower levels of government. It leaves determinations about the transfer of power by state governments to lower levels of government up to the states. Local governments, according to the Constitution, fall under the jurisdiction of state governments. In 2001, what is generally known as "second-level decentralisation" swept the states. One state after another amended its constitution so that powers and functions could be transferred from state governments to lower levels of government. While the move was meant to empower local communities, it also undermined subnational autonomy. The uniformity with which the reform was undertaken indicates that it was dictated by the federal government and state governments were required to meekly comply with it.

More recently, the resignation of some of the leaders in the Sothern Nations, Nationalities and People's Region (SNNPR) from their positions in state and local governments, after being asked publicly by the federal prime minister to do so, suggests that state officials are again acting under the dictation of the federal government. The fact that the ruling party of the state of Afar, after meeting with the prime minister, agreed to change the leadership of their state government is another example of dictation.

Subnational units in a federation are supposed to be "laboratories of democracy" where different policy initiatives are tested. Because they are acting uniformly under dictation, the states in Ethiopia are not laboratories of democracy but rather agents for implementing the orders of the federal government. The outcome is that state governments are functionally accountable to the federal government rather than to the state councils to which they are politically accountable.

2.3. Not-so-subtle Interference

The interference of the federal government in the autonomy of state governments is not always so subtle. It does not limit itself to dictating to state governments how they should manage their processes and institutions. The federal government has undermined state autonomy by formulating federal policies, adopting legislation, or taking actions on matters that are reserved to the states.

Although the organization of local governments, as mentioned earlier, is left to the states, this is not how it functions in practice. For example, Ethiopia's Sustainable Development and Poverty Reduction Programme, a federal document adopted in 2002, declares the devolution of a number of responsibilities from regional governments to Woredas and Kebeles. Despite the absence of provisions in the federal Constitution mandating that state governments transfer financial grants to lower levels of governments, this federal policy paper requires state governments to transfer "not less than 50% of their annual revenue as unconditional block grants to Woreda."[4]

This flagrant disregard for the autonomy of the states is also evident in the manner in which the federal government responds to unrest in the different parts of the country. Long before the House of Federation declares a federal intervention, the federal army is often deployed to troubled areas. Take, for example, the intervention of the federal government in the state of Somali that led to the removal of the state government. When the federal government ordered its army to take over key positions in Jigjiga, it was clear that it was not doing so upon the request of the state government. It was only after the federal government managed to remove the president of the state that it declared that the National Defence Forces had taken over the security-related responsibilities from the state upon the request of the new acting state president. This was an attempt to give a badge of constitutional federalism to an action that is already under way.

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[4]   *Id.* at 142, fn. 39.

The projects that fall under the Dine for Sheger and Dine for Ethiopia initiatives, a nationwide program by the federal government, seem to also blur the division of responsibilities between the federal and state governments. The constructions of resorts, parks, and recreation centers do not feature in the long list of powers of the federal government. Neither is tourism the constitutional responsibility of the federal government. The Constitution does not expect the federal government to worry about the rivers of Addis.

Yet these are not the only areas where the separation of responsibilities is being blurred. We have witnessed leaders and representatives of state governments negotiating and signing a peace agreement with armed forces. Yet, declaring a war and making a peace deal is an exclusive responsibility of the federal government. We have also seen reports of a delegation of a state government visiting, inviting, and receiving a president of a foreign country—basically conducting foreign relations, a functional area that is exclusively reserved for the federal government.

To be precise, the federal government does not see these as interferences in federal affairs as they are probably done with its knowledge and its active or passive participation. But these is serious confusion surrounding mandates that are driven by politics. The state government engaging in foreign relations was not necessarily as motivated by the desire to promote harmony between the two countries rather than by the desire to score political points against a domestic opponent. It is a case of politics trumping law and sacrificing constitutional federalism.

3. Explaining the Gap Between the Constitution and Practice

I have explained how the absence of both constitutionalism and a commitment to constitutional federalism has led to the wide gap in Ethiopia between the Constitution and constitutional practice. It is equally important, however, to identify the conditions that facilitate this rampant disregard of the basic principles of constitutionalism.

3.1. The making of the Constitution

The Ethiopian Constitution did not emerge from a comprehensive and a broadly representative "bargaining." The process was rather flawed in that it was dominated completely by ethnicity-based political formations.

Because the Constitution was not the product of a broadly representative bargaining process, its enforcement is not a top priority for some political parties. In fact, what they would like to do is engage in "large-scale constitutional overhaul," if not introduce a completely new constitution.

It is difficult to argue that political parties in Ethiopia take the federal nature of the state seriously. Most major political parties focus on obtaining a place at the national table or, if possible, capturing the center. None of the relatively well-known parties has defined the states as their primary and exclusive target. Even the ethnicity-based parties do not focus on capturing subnational power. This explains why many of them are often busy creating coalitions with other parties with a view toward being a strong contender for the trophy of national power. They do not seem to appreciate that controlling subnational institutions provides them with the resources and space necessary to mount a formidable challenge in national elections.

3.2. The absence of the autonomous organs of civil society

What happens in the arena of political competition is, of course, not the only variable that explains the gap between the Constitution and practice. Equally important is the autonomy of the organs of civil society. Independent and vibrant social forces are crucial for entrenching constitutionalism. Through advocacy and litigation, civil society organisations (CSOs) can help check/police the actions of the central government. Unfortunately, the situation in Ethiopia is not encouraging.

There are few professional and membership associations in Ethiopia. Thanks to the 2009 Charities and Societies Proclamation, the activities of CSOs was significantly curtailed. Although the restrictive law was subsequently abolished, the four years following abolition have not seen an increase in the active role of CSOs.

The existence of CSOs is not sufficient on its own. It is equally important that the space for civil society is not dominated by CSOs that advance particular agendas. Equally important as well is that there are no CSOs with diverse agendas or CSOs that champion constitutionalism and rule of law irrespective of the nature of government action, the section of the population that is impacted, or the elements of the Constitution that are implicated. If a civil society that claims to stand for rule of law and constitutionalism manages to bring a case before the Council of Constitutional Inquiry challenging the ethnic aspects of the federal arrangement, there is no reason why it or others cannot take the initiative to challenge a decision of the government that violates other laws and the Constitution.

The absence of autonomous organs of civil society and CSOs that are diverse in their orientation or are not partisan is, hence, a serious matter, as they are an important social force for challenging the federal government's erosion of subnational autonomy.

3.3. A press that is not free

The absence of credible and independent media is another gap in the set of institutions and social forces that could play a key role in promoting vertical constitutionalism. Of course, media restrictions have contributed to the narrowness of public space. But the media also lack professionalism: "Low standards and partisan agendas taint the credibility of the private press".[5] In the

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[5] International Crisis Group, Ethiopia: Ethnic Federalism and its Discontents, Africa Report No. 153, 21 (2009).

era of YouTubers and social media actors, it is not clear whether Ethiopia has a professional media in the traditional sense.

3.4. The umpire that cannot guard the federation

The other important factor is that a crucial feature of any kind of constitutional federalism is absent, that is, a credible umpire that stakeholders can rely on to police the Constitution. This is again largely because of the unusual model of constitutional review Ethiopia has chosen to adopt.

This unusual model of constitutional review that excludes courts from constitutional adjudication and gives the power of constitutional review to a political body is problematic. It leaves the federation without a competent, impartial, and suitable umpire that can police the Constitution. That is likely why its performance in the recent widely-followed case involving the postponement of the election was disappointing.

Conclusion

The ethnic nature of the federal design has definitely contributed to the tensions and the forms that conflicts take in Ethiopia. Yet, the twenty-seven-year-old federal Constitution has, after all, not been fully brought to life. Ethiopia might have a constitution, but strictly speaking, the country is not a federation. The gap between the Constitution and practice makes it difficult to determine with certainty whether the federal solution has helped alleviate or exacerbated ethnic divisions. It also makes it difficult to sustain the argument that the current challenges are attributable to the federal nature of the state: it is difficult to blame

federalism when the federal credentials of the state are in question. Perhaps fidelity to the federal Constitution should be the starting point.[6]

DISCUSSIONS

Dr. Zelalem Mogessie Teferra

Yonatan, in your conclusion, you made a point that we have to be loyal to the Constitution in order to resolve the existing national contestations; however, the Constitution's legitimacy itself is being continuously questioned. If the Constitution is not capable of serving us as a common ground, then how can we be loyal to it? I do not see how, in this context, the call for loyalty to the Constitution would help us forge a harmonious future.

My second question, is the issue in Ethiopia really an issue of self-expression or is it a fight for the center? Self-autonomy, for some, seems to mean control of the center exclusively. The discussion of federalism in Ethiopia sometimes seems like a race to acquire the center. Given the experiences we had at least in the last three decades, there is therefore a need for reconsidering our discussion and dialogue on federalism.

Dr. Sisay Alamahu

I have been curious about the way conflicts in Ethiopia are characterized, mostly by foreign scholars and media outlets: first, as a fight for the vision of the

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[6] Fidelity to the federal Constitution, of course, presupposes upholding the rule of law and democratising the state. Free, fair, and competitive subnational elections must become a more permanent fixture of the political landscape. Autonomous civil society forces must be given the space and support to exercise their role, including questioning the propriety and constitutionality of government actions. A competent and impartial system of constitutional review could take the form of judicial review, or a more powerful Constitutional Inquiry Council that does not have to refer its decisions to a political body for approval. Perhaps only then will subnational democracy flourish and the federal experiment in Ethiopia fully realise its potential.

country—unitarists and federalists; and second, characterizing the conflict in Tigray as a fight for more autonomy. But what I understand from your presentation is that there is no fight over vision between the warring parties, because the constitutional credential, or "federal credential" as you call it, shows that both had and have a unitary vision for the country in terms of practice. So, you have debunked that argument implicitly. But my question to you is: can the Constitution or the federal architecture that we have today survive a democratic dispensation? I ask this because you concluded your presentation by saying that we do not have enough evidence to say whether the federalism we have today works or not. Considering the level of autonomy, resources, institutions (including the special forces) that the regions have, and also the level of competition between ethnic groups that the present political architecture has promoted over the years, can the present constitutional architecture survive a democratic dispensation?

Dr. Mulugeta Mengist

I agree with your conclusion that unconstitutional centralization of power is one of the features of the way the Constitution has been implemented over the years. I also agree with the factor you mentioned as the reason for the over-centralization practice. But I want to mention one additional important factor: economics. In the context of the power sector for example, there is no constitutional or economic ground for a single entity to have the mandate to provide power services to 100 million people. And yet we see the federal government asserting that power and protecting it very jealously. And the reason for this is not politics, but economics: that is rent-seeking economics. Since there is quite a large amount of money involved in the power sector, the federal government is not willing to let it go to regional states. This is one important factor to note.

However, as much as there is unconstitutional centralization of power, there has also been neglect and fragmentation of constitutional power. For instance, the protection of human rights is entirely left to regional states. Because there is no money in that sector, it is not given much attention. But in theory that is one of the foci of a federalist state which strives to create a single economic and political

community. The Ethiopian federal government also makes broad delegation of power to regions without any assessment of regional capacity, or without any supervision and even without providing a constitutionally required financial assistance. Federal legislation governing land law, water law, forest law, and the like are left to the regions like a blank check. However, you see a departure in approach when it comes to mining laws. So, with land, water, or forests, regions can do as they wish but regarding mining, the federal government wants to assert its power. Therefore, yes unconstitutional centralization of power is politically driven but the economic factor must also be considered. Otherwise, the federal government's attempts to control money results in a suboptimal implementation of the federal arrangement as enshrined in the Constitution.

Dr. Mohammed Dejen

The current Constitution of Ethiopia is criticized for not being implemented, not for lack of devolution of power to subnational units. The Constitution has established one of the most devolved federal systems in the world. But because of the culture of democratic centralism that was entrenched in the EPRDF era, the Constitution was not implemented properly. However, taking this fact at face value and saying that it lacked democratic credentials because of a deficient practice downplays "the original sin" of the Constitution. So, I think, we cannot blame the lack of proper practice alone for what has gone wrong.

The Four Faces of Ethiopian Federalism

Dr. Berihun Adugna Gebeye

Abstract

Ethiopian federalism has been considered ethnic federalism both in domestic scholarly and policy discussions, as well as internationally in comparative federalism studies. I argue that Ethiopian federalism is so much more than "ethnic federalism" and even more than federalism itself. Ethiopian federalism has four faces, which are unitary, federal, confederal, and ethnocratic. While its unitary feature defers the federal promises, its confederal aspect overshadows the federal spirit. Similarly, its ethnocratic institutional arrangement not only creates "citizens" and "subjects," but also displaces the national project of creating a federal democracy to the periphery. By taking the Ethiopian Constitution and the political theory that underpins it seriously, this article demonstrates how the four faces of Ethiopian federalism have made the practice of constitutional democracy difficult in the past and how they could presumably make it more arduous in the future.

Introduction

Federalism is a constitutional arrangement where at least two levels of government rule the same territory and people in a framework of shared rule and self-rule.[1] The question of why a political community forms a federal state rather than a unitary one has been the subject of normative federal theory. One reason why political communities opt for federalism is that it gives them "the best of both worlds: the advantages of being a relatively small, homogeneous polity, along with

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[1] William H Riker, *Federalism: Origin, Operation, Significance* 11 (1964); Ronald Lampman Watts, *Comparing Federal Systems* 8 (3rd ed., 2008).

the advantages of being part of a stronger, more secure larger state; while at the same time avoiding some of the worst disadvantages of being either too small or too large."[2] For example, while being part of a larger state could provide military security and economic prosperity, being part of a small one could enable effective democratic self-government. The "best of big, best of small" rationale explains the origin of federalism in the United States of America, which, in turn, has inspired many nations worldwide, including regional organizations such as the European Union, to follow a similar course or to incorporate some federalist principles and practices. With the emergence of new states after the Second World War (especially those associated with decolonization) and the Cold War, federalism has been used to accommodate ethnic, religious, linguistic, and racial diversity within states. Therefore, in addition to offering the "best of big, best of small" service to political communities, federalism has been mediating and managing diversity and pluralism within such societies.[3]

Ethiopia adopted federalism in 1995 primarily to hold together the ethnolinguistic groups it includes, of which there are more than 80. Although this was not the first time Ethiopia had resorted to federalism, the 1995 federal experiment is by far the most complex one, involving novel normative commitments and institutional configurations. The first Ethiopian experience with federalism was with Eritrea in the 1950s when the latter obtained its independence from Italy. After a decision by the United Nations General Assembly, a federation between Eritrea and Ethiopia was formed in 1952.[4] From 1952-1962, Ethiopia was a federal state until the federation was dissolved to form a unitary one.[5] The dissolution of this federation led to the Eritrean War of Liberation, which also inspired many other ethnic liberation movements, such as those of the Tigray, the Oromo, and the Somali. Beyond this formal experiment of federation, the empire of Ethiopia had

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[2] Dimitrios Karmis and Wayne Norman, "The Revival of Federalism in Normative Political Theory" in Dimitrios Karmis and Wayne Norman (eds.), *Theories of Federalism: A Reader* 1, 8 (2005).

[3] See Alfred C Stepan, *Federalism and Democracy: Beyond the U.S. Model*, 10 Journal of Democracy 19 (1999).

[4] United Nations General Assembly Resolution 390-A(v) of 2 December 1950; See also Andargatchew Tiruneh, *Eritrea, Ethiopia, and Federation (1941-1952)*, 2/3 Northeast African Studies 99 (1980).

[5] For details, see Tekeste Negash, *Eritrea and Ethiopia: The Federal Experience* (1997).

operated under a federal logic that recognizes that the provinces have substantial power.[6] However, with a rationale of modernization, Emperor Haile Selassie I dismantled the pre-existing regional powers of the *Rases*, or the governors of the provinces, by reconstructing feudalism in a way that enhanced the political power of the monarchy and his direct descendants.[7] As such, the turn to federalism in 1995 to regulate the ethnic diversity of the Ethiopian state was a logical and necessary step in the right direction.

The 1995 federal experiment, as David Turton has observed, is "both radical and pioneering."[8] It is radical because it restructured the Ethiopian state anew based on the principle of ethnic groups having self-determination. It is pioneering because "Ethiopia has gone further than any other African state, and further than 'almost any other state worldwide' in using ethnicity as its fundamental principle."[9] Ethiopia has established a federalism in line with ethnicity, dubbed ethnic federalism."[10]

Ethiopia's ethnic federalism is as contested today as it was when it was first established more than a quarter of a century ago. Ethiopian scholars, politicians, and the public hold different and sometimes contradictory views on the nature, operation, and usefulness of the federal system to the country.[11] On the one hand, proponents of the federal system—mostly ethnonational political groups—claim

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[6] Zemelak Ayele, *Local Government in Ethiopia: Still an Apparatus of Control?*, 15 Law, Democracy & Development 1, 2–6 (2011).

[7] See Messay Kebede, *Survival and Modernization: Ethiopia's Enigmatic Present: A Philosophical Discourse* (1999).

[8] David Turton, Introduction to David Turton (ed.), *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* 1 (2006).

[9] *Ibid.*

[10] See Alemante G. Selassie, *Ethnic Federalism: Its Promise and Pitfalls for Africa*, 28 Yale Journal of International Law 51 (2003).

[11] For the different scholarly views on Ethiopian federalism, see Assefa Fiseha, *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study* (2006); Yonatan Tesfaye Fessha, *Ethnic Diversity and Federalism: Constitution Making in South Africa and Ethiopia* (2013); Semahagn Gashu Abebe, *The Last Post-Cold War Socialist Federation: Ethnicity, Ideology and Democracy in Ethiopia* (2014); Yohannes Gedamu, *The Politics of Contemporary Ethiopia: Ethnic Federalism and Authoritarian Survival* (2021).

that if Ethiopia is to continue as a unified nation, it must maintain its current federal structure, which is undergirded by ethnicity and the corporate conception of group rights.[12] The argument states that the contemporary political problem in Ethiopia is not related to the ethnic character of the federal system but, instead, is connected to the lack of democracy and accountable government.[13] For this group, what is needed is democratization and constitutionalism, not federal reform. On the other hand, opponents of the federal system—mostly pan-Ethiopian political groups—contend that if Ethiopia is to persist as a unified nation, it must change its ethnic-based federal system to a non-ethnic one that considers the individual the primary subject of the political order, as is the case in other liberal democratic states.[14] For this group, ethnic federalism does not only intensify ethnic conflicts and tensions across the country, but it also erects some structural barriers to the practice of democracy and constitutionalism.[15] Without federal reform, this group posits, it is difficult to establish and operate a democratic constitutional order in the country.

The ethnic character of this federal system has dominated political debate and scholarly discussion about federalism in the country from its establishment to the present. Indeed, this is justified, as the normative innovations and institutional setups of the 1995 Constitution were shaped by the quest to address the issue of ethnicity and ethnic diversity. From the preamble to the basic principles of the Constitution, including the bill of rights and the structural parts of the Constitution, all the elements emphasize the primacy of ethnicity. Ethnicity

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[12] See Berihun Adugna Gebeye, *Toward Making a Proper Space for the Individual in the Ethiopian Constitution*, 18 Human Rights Review 439 (2017).

[13] Assefa Fiseha, *Federalism, Development and the Changing Political Dynamics in Ethiopia*, 17 International Journal of Constitutional Law 151 (2019).

[14] Semahagn Gashu Abebe, *supra* note 11.

[15] See Assefa Mehretu, *Ethnic Federalism and Its Potential to Dismember the Ethiopian State*, 12 Progress in Development Studies 113 (2012); Asnake Kefale, *Federalism and Ethnic Conflict in Ethiopia: A Comparative Regional Study* (2013); Legesse Tigabu Mengie, *Ethnic Federalism and Conflict in Ethiopia: What Lessons Can Other Jurisdictions Draw?* 23 African Journal of International and Comparative Law 462 (2015); Semir Yusuf, *Drivers of Ethnic Conflict in Contemporary Ethiopia* (2019).

animates the very foundation of the constitutional order, and the ethnic federal arrangement is just one manifestation of it.[16]

The exclusive focus on the ethnic aspect of Ethiopian federalism, however, ignores its other important and interesting aspects, which should have been included in the discourse regarding federalism. In this article, I argue that ethnic federalism, or as I call it here, "Ethiopian federalism," is so much more than "ethnic federalism" and even more than federalism itself. Ethiopian federalism has four main faces, and indeed, federalism may have many faces across federal states. For example, J. R. Mallory identifies the five faces of Canadian federalism—the quasi-federalism of the Macdonald era, the classic, emergency, and co-operative federalism types, and, finally, double-image federalism—all of which characterize the different forms of Canadian federalism across different time periods.[17] Similarly, Byron Dailey reveals the five faces of federalism the United States Supreme Court Justices adhere to in deciding major federalism cases.[18] These faces of federalism in Canada and the United States sit within its broader domain and largely arise in its application. But the four faces of Ethiopian federalism I expound in this article extend beyond the contours of federalism and are mainly found in the constitutional text.

By taking the Ethiopian Constitution and the political theory that underpins it seriously, this article explores and examines the four faces of Ethiopian federalism, which have thus far been systematically and comprehensively understudied and have different implications for the operation of a federal and democratic state and government. First, when we consider Ethiopian federalism while viewing ethnic groups as corporate entities, it is a *federation of convenience,* a potentially destructible and divisible federal union. Second, when we examine it within the context of power allocation between the tiers of government or from the vantage

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[16] See also Jon Abbink*, Ethnic-Based Federalism and Ethnicity in Ethiopia: Reassessing the Experiment after 20 Years* 5 Journal of Eastern African Studies 596 (2011).

[17] JR Mallory, "The Five Faces of Federalism" in Paul-Andre Crepeau and C.B. MacPherson (eds.), *The Future of Canadian Federalism* 6 (1965).

[18] Byron Dailey, *The Five Faces of Federalism: A State-Power Quintet without a Theory*, 62 Ohio State Law Journal 1243 (2001).

point of regional states, Ethiopian federalism is a *centralized federation*—closer to a unitary state. Third, when we observe it from the perspective of citizenship or individuals, Ethiopian federalism is a *confederation*. Fourth and finally, when we analyze it by assessing ethnic relations as collective entities, Ethiopian federalism has institutionalized an *ethnocracy* rather than a democracy. These four faces of Ethiopian federalism have brought about a novel political and constitutional experiment in the form of a "new state system" that has unitary, federal, confederal, and ethnocratic elements. In this article, I develop these four faces of Ethiopian federalism in their order and explain how each of them may affect the experimentation with federal democracy in the country.

1. Ethiopian Federalism as a Federation of Convenience

In its etymology, federalism is a covenant or pact among individuals and groups promoting mutual recognition and unity among them within a polity.[19] Whether a federal system is adopted out of consideration for security, liberty, economic prosperity, freedom, and democracy—as in many Western federal democracies—or as an accommodation mechanism for ethnic, religious, and linguistic diversity—as in numerous post-Second World War examples such as Belgium, Nigeria, or India—federalism constitutionally commits to the continuity and indivisibility of the federal union.[20] Consider, for example, Nigeria and the United States: while the constitution of the former proclaims that Nigeria is "one indivisible and indissoluble sovereign nation," the constitution of the latter aspires to form "a more perfect union."[21] Federalism, then, is similar to a marriage vow, in that constituent units of the federation take each other "to have and to hold from this day forward … until death do us part." Here the claim is not that federations should be designed to survive forever or that the promise of

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[19] Daniel J Elazar, *Exploring Federalism* 5 (1987).

[20] Michael Burgess, *In Search of the Federal Spirit: New Comparative Empirical and Theoretical Perspectives* (2012).

[21] See, for example, Herbert J Storing and Murray Dry, "The Constitutional Convention: Toward a More Perfect Union" in J. Frisch Morton and G. Stevens Richard (eds.), *American Political Thought* 17 (3rd ed, 2011, Routledge).

indivisibility alone would bring a perpetual union.[22] Rather, as a matter of political theory and practice, democratic federations make a solemn commitment to their continuity during their founding moment. Whether such federations continue to exist is contingent upon several factors both within and beyond them. To use the marriage metaphor once again, we know that many marriages can end, and indeed do cease, in divorce, but the solemn vow to "take each other until death do us apart" is an essential part of the conclusion of marriage. It would be quite strange to both the spouses and the institution of marriage if the couple failed to take this solemn oath. Likewise, such a formal commitment to a federal union is also necessary for the establishment of democratic federal systems. But Ethiopian federalism has no such assurance.

Ethiopian federalism was established based on the principle of the right to self-determination, including ethnic groups' right to secession. According to the Constitution, the various ethnic groups, using their right to self-determination, came together to form one political and economic community known as the Federal Democratic Republic of Ethiopia (FDRE) that would be based on the ideals of the rule of law, peace, and democracy.[23] The Constitution also recognized that the ethnic groups have "an unconditional right to self-determination including the right to secession."[24] Unlike other polities, which built their federal systems on the notion of the *indivisibility of the state*, Ethiopia based its federalism on the notion of the *potential divisibility of the state* if it is ever needed.[25] Although the recognition of the right to secession is at odds with the very idea of federalism as a covenant towards "a more perfect union," as in the United States, Germany, Nigeria, or India, Ethiopia opted to construct its federal system based on this normative commitment.[26] Consequently, the Ethiopian Constitution does not

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[22] See Sanford Levinson, *Perpetual Union, Free Love, and Secession: On the Limits to the Consent of the Governed*, 39 Tulsa Law Review 457 (2003).

[23] See the Constitution of Ethiopia 1995, Preamble and Article 1.

[24] *Ibid.*, Article 39.

[25] See also John M Cohen, *"Ethnic Federalism" in Ethiopia*, 2 Northeast African Studies 157 (1995).

[26] Alemante, *supra* note 11, 47–49; Cass R Sunstein, *Constitutionalism and Secession*, 58 The University of Chicago Law Review 633 (1991).

intend to provide for a "permanent framework of government" for the state, unlike many others worldwide.[27]

From the perspective of the ethnic groups, then, Ethiopian federalism is a federation of convenience from which they can secede or break away at any time, without even providing any justification or rationale for doing so. As a matter of constitutional law, Ethiopian federalism has no solemn commitment to the continuity and territorial integrity of the Ethiopian state. To this extent, it is a federation of convenience in which the ethnic groups hold the sovereign power to make or unmake the Ethiopian state at any time, based on their own terms.

The reason Ethiopia chose to build this federation based on convenience for ethnic groups has a long and complicated political and historical context that dates from the Ethiopian Student Movement of the 1960s and 1970s, which is related to the so-called "question of nationalities."[28] The question of nationalities concerned the nature of the Ethiopian state and the pre-existing ethnic relations in the country. A radical student group advanced the idea that Ethiopia was a "prison house of nationalities" like Tsarist Russia and that it marginalized many of its ethnic groups in its socio-economic, cultural, and political makeup. These students claimed that Ethiopia only represented the culture, religion, and psychological makeup of the "Amhara-Tigre" (Ethiopia's two northern ethnic groups) while marginalizing its ethnolinguistic groups, of which there are more than 80, in the national imagination. The solution to the question of nationalities, they proposed, was the recognition of the right to self-determination, including the concept that each nationality or ethnic group would have the right to secession.

The removal of the military regime that ruled Ethiopia from 1974-1991 by ethnonational armed groups such as the Eritrean People's Liberation Front (EPLF) and the Tigray People's Liberation Front (TPLF), who shared similar views

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[27] Martin Loughlin, *Against Constitutionalism* (Harvard University Press 2022) 4.

[28] Bahru Zewde, *The Quest for Socialist Utopia: The Ethiopian Student Movement, c. 1960-1974*, 187-228 (2014) 187–228; Merera Gudina, "Contradictory Interpretations of Ethiopian History: The Need for a New Consensus" in David Turton (ed.), *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* 119 (2006).

with the radical Student Movement, made possible the restructuring of the Ethiopian state based on the principle of the right to self-determination, including the right to secession.[29] In 1993, Eritrea voted on independence from Ethiopia and became an independent state. After two years of a highly controlled constitution-making process, the Ethiopian People's Revolutionary Democratic Front (EPRDF)—a coalition of four ethnic-based parties, dominated by the TPLF, that ruled Ethiopia from 1991-2018—restructured the Ethiopian state along the lines of ethnic federalism, guaranteeing each ethnic group the right to secession in a brand new constitution.[30] To use Alexander Hamilton's expression in the *Federalist No. 1*, the Ethiopian choice for ethnic federalism was more a result of "accident and force" rather than the outcome of people's "reflection and choice," as in the case of the constitution of socialist Ethiopia after the collapse of the Monarchy in 1974 through revolution.[31]

Beyond this contested origin, the issue with this federation of convenience is not only that it is ethnic, but also that it has no constitutional commitment to the continuity of the Ethiopian state. Indeed, there are many studies that document the promises and pitfalls of ethnic federalism, and one prominent Ethiopian federalism scholar explains what he considers the "original sin of Ethiopian federalism."[32] However, the absence of a constitutional commitment to the federal union and its divisibility is problematic whether the federal system is organized along ethnic or non-ethnic lines. The constitutional right of an ethnic group or a territorial unit to secession without any condition goes counter to the spirit of federalism, as it can render such a federalism one of convenience, which could

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[29] E. Centime Zeleke, *Ethiopia in Theory: Revolution and Knowledge Production, 1964-2016*, 143-45 (2019).

[30] See Gedion T. Hessebon, *The Precarious Future of the Ethiopian Constitution*, 57 Journal of African Law 215 (2013); Minasse Haile, *The New Ethiopian Constitution: Its Impact upon Unity, Human Rights and Development*, 20 Suffolk Transnational Law Review 1 (1996).

[31] See Andargachew Tiruneh, *The Ethiopian Revolution 1974-1987: A Transformation from an Aristocratic to a Totalitarian Autocracy* (1993).

[32] Yonatan Tesfaye Fessha, *The Original Sin of Ethiopian Federalism*, 16 Ethnopolitics 232 (2017).

make a serious federal political action and practice extremely volatile and indeterminate in time and place.

There are at least two major problems associated with the constitutional recognition of secession in Ethiopian federalism. The first is that the constitutional design could create its own incentive structures for its enforcement and, in the case of the right to secession, this could challenge the stability and continuity of the federal constitutional order. This creates a collective action problem, which is the issue federalism primarily aims to address in the first place.[33] Consider, for example, that one of the ethnic groups, called X, wants to secede from Ethiopia. X thinks that it is in its best interest to form its own sovereign state as it has the population numbers, the economic resources, and the cultural attributes to be a viable and perhaps prosperous state. Another ethnic group called Y considers X's move towards secession very detrimental to its socio-economic, cultural, and political well-being. However, another ethnic group, Z, thinks that the secession of X is beneficial. Assume that the secession of X may also have some advantages for some ethnic groups and disadvantages for others (for example, the secession of Eritrea positioned the TPLF as the dominant actor in Ethiopian politics for three decades), regardless of how we define (dis)advantages. Within this scenario, X, following the constitutional procedure of Article 39(4)(a), approves its demand for secession by a two-thirds majority in its legislative council and asks the federal government to organize a referendum as required by Article 39(4)(b). If the federal government is loyal to the Constitution, it has no alternative but to organize a referendum that eventually will lead to the secession of X. The problem here is not primarily that X secedes, but that the federal government has no constitutional mechanism for resolving the disagreements between the other ethnic groups who support or oppose the secession. Here the *Quebec Secession Reference* judgement is instructive in the exercise of the right to secession as an empirical matter.[34] As the Supreme Court of Canada noted in this judgement, while Quebec does not have a unilateral right of secession under the Canadian

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[33] See Robert D. Cooter and Neil S. Siegel, *Collective Action Federalism: A General Theory of Article I, Section 8*, 63 Stanford Law Review 72 (2010).

[34] See Peter Leslie, *Canada: The Supreme Court Sets Rules for the Secession of Quebec*, 29 Publius Journal of Federalism 135 (1999).

constitution or international law, the exercise of such a right imposes a "constitutional duty to negotiate" between Quebec, the federal government, and the provinces, considering the rights and interests of "all Canadians both within and outside of Quebec, and specifically the rights of minorities."[35] But the Ethiopian Constitution does not even impose such a "constitutional duty to negotiate" in the exercise of the right to secession, as this right belongs to each ethnic group. Thus, the fact that secession, which is predominantly an extra-constitutional, political, and international relations issue,[36] is constitutionalized limits the capability of the federal government and the regional states to solve a fundamental collective action problem: an issue that no ethnic group or tier of government can resolve individually within the boundaries of constitutional law or politics.[37]

Second, if the constitutional design cannot be implemented in practice, this could raise serious issues about the enforceability of the Constitution as a binding legal document that ultimately undermines the legitimacy of the Constitution and the political order it operates.[38] In fact, there are some who argue that Article 39 was included as a token assurance for the various ethnonational forces during the making of the Constitution,[39] and many others show how difficult it is to enforce this provision in part due to both its complicated procedure and the authoritarian political culture of the country.[40] The truth of the matter is that Article 39 is a binding law today, and if Ethiopia is to have a democratic government that respects the Constitution, some ethnic groups and political forces could resort to the peaceful option of using Article 39 for separation rather than raising arms. In

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[35] *Reference Re Secession of Quebec*, [1998] 2 S.C.R. 217, para 92.

[36] Nicolás Brando and Sergi Morales-Gálvez, *The Right to Secession: Remedial or Primary*,' 18 Ethnopolitics 107 (2019).

[37] Aziz Huq, *Does the Logic of Collective Action Explain Federalism Doctrine?*, 66 Sandford Law Review 1203 (2013).

[38] Stephen Gardbaum, "The Place of Constitutional Law in the Legal System" in Michel Rosenfeld and András Sajó (eds.), *The Oxford Handbook of Comparative Constitutional Law, 169* (2012).

[39] Alem Habtu, *Multiethnic Federalism in Ethiopia: A Study of the Secession Clause in the Constitution*, 35 Publius 313, 326-27 (2005).

[40] Daniel Abebe, "The Ethiopian Constitution and Ethnic Federalism" in Tom Ginsburg and Aziz Z. Huq (eds.), *From Parchment to Practice*?, 289 (2020, Cambridge University Press).

this regard, for instance, the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) fought against the EPRDF-led Ethiopian government for more than two decades for the liberation of their respective ethnic groups. With the coming to power of Abiy Ahmed in 2018 and the demise of the EPRDF, however, both the OLF and the ONLF have become opposition political parties who struggle for their cause through the ballot box. If they can manage to win the necessary votes and assume government power, it will be completely constitutional for them to initiate the secession process of Article 39(4). If all the procedures of this article are met, the federal government has no option other than effectuating the secession process. Doing otherwise would be utterly unconstitutional and it may have a great potential to ignite conflict, chaos, or even civil war in the country. Viewed through these perspectives, the enforcement or non-enforcement of the constitutional right to secession will have an adverse impact on the constitutional order and the practice of federal democracy: doomed whether they do or do not.

2. Ethiopian Federalism as a Centralized Federation

This federation of convenience may give the impression and façade that Ethiopia has been transformed from "a prison house of nationalities" into "a freedom house of nationalities"—that ethnic groups now have the autonomy and freedom to decide on their own affairs in the territories they inhabit, i.e., practice self-rule, and participate in the governance of the country on an equitable basis at the federal level, i.e., engage in shared rule. However, the institutional arrangement of the federal system and the power allocation between the tiers of government reveal that this is far from the case. As many of the ethnic groups live in the regional states, the power allocation between the federal government and the regional ones, and their intergovernmental relations, affect their autonomy and freedom. Indeed, there are many types of federal systems, such as centralized versus decentralized, cooperative versus competitive, symmetric versus asymmetric, etc.[41] The specific context of the states may necessitate the adoption of one or the

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[41] Nicholas Aroney, "Types of Federalism" in Rainer Grote, Frauke Lachenmann, & Rüdiger Wolfrum (eds.), *Max Planck Encyclopedia of Comparative Constitutional Law* (2016).

other, or a combination of different types of federalism. It must be also stated that there is no one toolkit of federalism that works everywhere. However, it is reasonable to expect that a federal system that aims to create "a more perfect union"—like the United States or any other federal state—will presumably not recognize the right to secession in its constitution. Even if demands for secession could arise in these federal systems, as it did in Canada (Quebec) and the United States (Texas), their respective courts have ruled that the constituent units of the federation do not have a right to unilateral secession. In particular, the Supreme Court of the United States in *Texas v White* noted that the "Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States."[42] Likewise, it is also reasonable to expect that a federal system that stands on the principle of the right to self-determination, including the right to secession, will adopt a decentralized federal system that allocates more power to the subnational entities. This will also be reflected in the allocation of power between the tiers of government and their intergovernmental relations. However, the Ethiopian Constitution, on the one hand, promises a subnational autonomy that includes the formation of a new sovereign state, while on the other hand concentrating power at the center. From the perspective of power allocation between the tiers of government or from the vantage point of regional states, Ethiopian federalism is a centralized federation that grants a large amount of political and financial power to the federal government.

Despite the laudable autonomy and freedom that can be noted from afar, ethnic federalism institutionalizes the centralizing impulses of the Ethiopian state in the design and operation of the federation.[43] This is because, first of all, important government functions and prerogatives remain the mandates of the federal government. In addition to the list of 21 broad items—such as national defense, foreign affairs, financial and monetary matters, transportation, health, education, science and technology, and land and natural resources—that are considered the exclusive legislative domain of the federal government, the Constitution

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[42]   *Texas v White* 74 US 700 (1869) 725.

[43]   See Berihun Adugna Gebeye, *A Theory of African Constitutionalism* 138-44 (2021) ; David Turton, Introduction to David Turton (ed.), *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* 1, 29 (2006).

empowers the federal government to formulate and implement the country's overall socio-economic and development policies, plans, and strategies.[44] This gives the federal government wider power in implementing uniform socioeconomic and development policies in the country and, consequently, shrinks the autonomy of the regional states in pursuing their own development policies. Even if states have residual powers and the Constitution specifically mentions the power of states to formulate and execute their own socioeconomic and development policies, these cannot contradict the policy framework of the federal government.[45] Moreover, states are only empowered to administer land— the key livelihood for more than 80% of the Ethiopian population—and other natural resources in accordance with federal laws.[46] Furthermore, the Constitution allows the federal government to "legislate on civil matters" based on the authorization of the House of Federation (HoF) whenever this is necessary for establishing and sustaining a single economic community.[47] Thus, the division of power between the two tiers of government is not consistent with the laudable affirmation and recognition of the right to self-determination, including secession. Furthermore, it is also important to remember that, beyond its ethnic diversity, Ethiopia is varied in its geography, climate, and mode of production, which may ultimately necessitate diverse and contextualized socioeconomic and political policies. Yet, since the 1960s, the Ethiopian state has been approaching the pastoral lowlands with a developmental mission driven by modernization and settlement, as well as the promotion of agrarian production as way of life, regardless of the imperial, military, and federal nature of its governments over the years.[48]

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[44] Constitution of the Federal Democratic Republic of Ethiopia, Federal Negarit Gazeta 1st Year No. 1, Proclamation No. 1/1995, Art. 51 and 51(1) (21 Aug. 1995) ["the Ethiopian Constitution"].

[45] *Ibid.*, Article 52(1) and 2(c).

[46] *Ibid.*, Article 52(2)(d).

[47] *Ibid.*, Article 55(6); see also Assefa Fiseha and Zemelak Ayele, "Concurrent Powers in the Ethiopian Federal System" in Nico Steytler (ed.), *Concurrent Powers in Federal Systems: Meaning, Making, Managing?*, 254 (2017).

[48] See Berihun Adugna Gebeye, *Unsustain the sustainable: An evaluation of the legal and policy interventions for pastoral development in Ethiopia*, 6 Pastoralism 1 (2016).

Second, the power and autonomy of the regional states has been further diminished by the adoption of a unicameral legislative branch. The House of Peoples' Representatives (HPR), the lower house of parliament, is the sole legislative body of the federal government.[49] Unlike the case of federal legislatures elsewhere,[50] which usually adopt a bicameral legislative body composed of a Senate, representing the interests of the states, and a House of Representatives, acting for those of the general public, the Ethiopian Constitution does not confer a legislative mandate on the HoF, the upper house of parliament. The main function of the HoF is constitutional interpretation.[51] As the people elect members of the HPR through direct and universal suffrage, its members are responsible to their constituencies.[52] Although 20 out of 550 seats are allocated to minority nationalities,[53] regional states as such do not have any representation in the legislative process. As is the case in some unitary states, the federal government can enact, and has indeed authorized, laws that further reduce the autonomy of regional states.

Third, the control of the major revenue sources by the federal government limits the autonomy of the regional states in executing their constitutionally-allocated powers and responsibilities.[54] Furthermore, although the Constitution provides for a concurrent power of taxation,[55] this article was "unofficially" amended in

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[49] Ethiopian Constitution, Article 55(1).

[50] See Meg Russell, *The Territorial Role of Second Chambers* 7 The Journal of Legislative Studies 105 (2001).

[51] See Assefa Fiseha, *Constitutional Adjudication through Second Chamber in Ethiopia*, 16 Ethnopolitics 295 (2017); Adem Abebe, "Unique but Ineffective: Assessing the Constitutional Adjudication System in Ethiopia" in Charles Fombad (ed.), *Constitutional Adjudication in Africa* 181 (2017); Yonatan Tesfaye Fessha, *Judicial Review and Democracy: A Normative Discourse on the (Novel) Ethiopian Approach to Constitutional Review*, 14 African Journal of International and Comparative Law 53 (2006).

[52] Ethiopian Constitution, Article 54(1) and (2).

[53] *Ibid.*, Article 54(3).

[54] See Yonatan Fessha and Coel Kirkby, *A Critical Survey of Subnational Autonomy in African States*, 38 Publius: The Journal of Federalism 248 (2008); Abu Girma Moges, *An Economic Analysis of Fiscal Federalism in Ethiopia*, 10 Northeast African Studies 111 (2003); Edmond J Keller, *Ethnic Federalism, Fiscal Reform, Development and Democracy in Ethiopia*, 7 African Journal of Political Science / Revue Africaine de Science Politique 21 (2002).

[55] Ethiopian Constitution, Article 98.

1997 to the effect that the federal government would levy the concurrent taxes and could solely determine the rate of these taxes and the amount that would go to the states.[56] Moreover, the major source of revenue for the regional states comes from low tax bases,[57] such as from state and private employees, individual farmers, and cooperatives, and thus, fiscal centralization makes regional states dependent on the federal government for their financial expenditures in operating their governments and administrations.[58]

When the constitutional design is seen in the light of the prevailing constitutional practice, as law does not operate in a vacuum, the centralized nature of the federation becomes even more apparent.[59] The political ideologies and methods of the EPRDF had crippled the autonomy of the regional states even more in practice:[60] the ideology of revolutionary democracy,[61] the principle of democratic centralism, and the ushering in of the developmental state[62] had all changed the federal state structure into a de facto unitary state.[63] The EPRDF had been the primary producer of the country's socioeconomic and political development policies, and the regional states have to then implement them as centrally planned.[64] In this respect, the inauguration of a new Growth and Transformation Plan every five years is a fine example of how the autonomy of regional states to follow and implement their own development agendas is limited. The lack of

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[56] See also Assefa Fiseha and Zemelak Ayele, *supra* note 47, 246.

[57] Ethiopian Constitution, Article 97.

[58] See Solomon Negussie, *Fiscal Federalism in the Ethiopian Ethnic-Based Federal System* (2006); Eshetu Chole, *Opening Pandora's Box: Preliminary Notes on Fiscal Decentralization in Contemporary Ethiopia*, 1 Northeast African Studies 7 (1994).

[59] See Abebe, *supra* note 11.

[60] See Abbink, *supra* note 16.

[61] See Jean-Nicolas Bach, *Abyotawi Democracy: Neither Revolutionary nor Democratic, a Critical Review of EPRDF's Conception of Revolutionary Democracy in Post-1991 Ethiopia*, 5 Journal of Eastern African Studies 641 (2011).

[62] See Christopher Clapham, *The Ethiopian Developmental State*, 39 Third World Quarterly 6, 1151-65 (2017).

[63] See Yonatan Fessha, "A Federation without Federal Credentials: The Story of Federalism in a Dominant Party State" in Charles M Fombad and Nico Steytler (eds.), *Decentralization and Constitutionalism in Africa* 133 (2019).

[64] Assefa Fiseha, *supra* note 13.

appetite on the part of the EPRDF for different policy implementation, or even contextualization, coupled with the political cost to regional states (and their leaders) in pursuing their own policies makes the constitutional right to self-determination including secession a mockery.[65]

While we have yet to witness how ethnic federalism will work under the premiership of Abiy Ahmed, we have already seen early signs of further centralization with the transformation of the EPRDF into the unitary Prosperity Party (PP) and the substitution of revolutionary democracy with **መደመር** (*madamare*)[66] as the guiding ideology of the governing party and—by extension— the Ethiopian state. The transformation of the EPRDF into the PP has dismantled (at least in principle) the decentralized EPRDF structure that had provided member parties of the coalition with the limited autonomy to channel their political ambitions (even if undemocratic) within their constituencies and the federation. Such political change within the ruling party has been accompanied by the militarization of the federation. The military has been tasked with the duty of enforcing what the federal government has described as "the rule of law" in the country. For instance, through this "rule of law" operation, the federal government, using the military, successfully removed the president of the Somali Regional State in 2018.[67] But a similar "rule of law" operation in Tigray in November 2020 engulfed the northern part of the country in a catastrophic civil war that has challenged and may continue to test the social fabric of the people and the continuity of the Ethiopian state as a unified entity. If revolutionary democracy helped the EPRDF to centralize and enforce the decision-making processes in the party and by extension in the country, the unitary party structure of the PP and "military federalism"[68] has assisted Abiy Ahmed in centralizing and

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[65] Bach, *Supra* note 61; Theodore M. Vestal, *Ethiopia: A Post-Cold War African State* (1999).

[66] Literally, **መደመር** (*madamare*) means addition or working together in cooperation and unity. See **ዐቢይ አህመድ፣ መደመር** (Abiy Ahmed, **መደመር** (*madamare*) (2019).

[67] See also Yonatan Fessha, "Secessionism, Federalism and Constitutionalism in Ethiopia," *Verfassungsblog*, (August 15, 2018), https://verfassungsblog.de/secessionism-federalism-and-constitutionalism-in-ethiopia/.

[68] For further insight on military federalism, consider the Nigerian federal experience. For details, see J. Isawa Elaigwu, *Nigerian Federalism Under Civilian and Military Regimes*, 18 Publius: The Journal of Federalism 173 (1988).

accumulating power that has significantly affected the power balance between the federal government and the regional states.

Ethiopian federalism thus presents a paradox that emanates from a constitutional commitment to the right to self-determination, including the ethnic groups' right to secession, and a subsequent subversion of their autonomy and freedom by limiting the power of the regional states in which these ethnic groups pursue their socioeconomic and political lives. This means that the centralizing impulse of the Ethiopian state, one that tends to promote the accumulation and concentration of power at the center, largely remains alive and active.[69] Despite the introduction of ethnic federalism, the centralized theory of government that has plagued Ethiopia, especially since Emperor Haile Selassie I, has not been genuinely and properly decentralized and tamed.

3. Ethiopian Federalism as a Confederation

If Ethiopian federalism is a federation of convenience from the viewpoint of the ethnic groups and a centralized one from that of the regional states, it is a confederation from the perspective of the citizens. This is because the Ethiopian Constitution generated two imagined political communities as sites of citizenship. The first includes the Nations, Nationalities, and Peoples (NNPs), a collective name for ethnic groups, while the second is the FDRE. The constituent power that inaugurated the Constitution did not rely on some reading of sovereignty or political authority which traditionally rests on the idea of the people in the singular.[70] Rather, it imagined a political community and claimed its constituent power as a derivative of that power through the right to self-determination.

The constituent power in the Constitution derives its authority from the sovereign powers of the NNPs. It is important to reiterate the preamble of the Constitution here: "We, the Nations, Nationalities and Peoples of Ethiopia ... Have therefore

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[69] See also Yohannes Gedamu, *supra* note 11.

[70] See Joel Colon-Rios, *Constituent Power and the Law* (2020); Lucia Rubinelli, *Constituent Power: A History* (2020).

adopted ... this Constitution through representatives we have duly elected for this purpose as an instrument that binds us in a mutual commitment to fulfill the objectives and the principles set forth above."[71] Questions like who the NNPs are, how they exist, and how they empower themselves to establish a constitution for Ethiopia necessarily require an Andersonian imagination.[72] Of course, what the NNPs represent are the events of the pre-constitutional period and evidence is not required to prove this. Nonetheless, the way the NNPs exist and ought to do so mandates an imagination without which the legitimacy of the constituent powers would be questionable. Hence, the innovation of a prior imagined political community (the transformation of ethnic groups to political communities—NNPs) becomes necessary to conceive the constituted political community (FDRE). In this course, the right to self-determination offered the necessary foundational basis and frame of reference for the imagination.[73]

NNPs are imagined political communities because they are regarded as territorially limited, as sovereign, and as communities. They are territorially limited because NNPs are assumed to have a geographical base at either the regional state, zone (ልዩ ዞን—*leyu zone*), district (ልዩ ወረዳ—*leyu waradā*) or local (ልዩ ቀበሌ—*leyu qabalé*) levels.[74] They are perceived as sovereign states as they are bestowed with the right to self-determination up to secession.[75] They are viewed as communities because they are assumed, among other things, to share a common culture, language, identity, and psychological makeup.[76] As a matter of principle, the representatives of these NNPs can have the legitimate political authority and power to make a constitution for NNPs. Using their sovereign power, NNPs constituted the *nation states* of Tigray, Afar, Amhara, Oromia, Somalia, and Harari—and the *multination* states that includes the Southern

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[71] Ethiopian Constitution, Preamble.

[72] Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* 5-7 (Revised ed., 2016).

[73] Andreas Eshete, "The Protagonists in Constitution Making in Ethiopia" in Goran Hydén (ed.), *Constitution-Making and Democratization in Africa* 69-78 (2001).

[74] Ethiopian Constitution, Article 39(5).

[75] *Ibid.*, Article 39(1).

[76] *Ibid.*, Article 39(5).

Nations, Nationalities, and Peoples, Benishangul/Gumuz and Gambella—within the contours of another imagined political community called the FDRE.[77]

The other imagined political community is the FDRE. The FDRE is conceived to be territorially limited insofar as it, for instance, excludes Eritrea (unlike the pre-1991 era) and is expressed through the territorial limits of its member states. In this regard, the Constitution provides that: "The territorial jurisdiction of Ethiopia shall comprise the territory of the members of the Federation and its boundaries shall be as determined by international agreements."[78] It is also envisaged as a sovereign state. Consider how the supremacy clause of the Constitution articulates this sovereignty: "All sovereign power resides in the Nations, Nationalities and Peoples of Ethiopia; This Constitution is an expression of their sovereignty; [and] [t]heir sovereignty shall be expressed through their representatives elected in accordance with this Constitution and through their direct democratic participation."[79]

As is self-evident, this sovereign imagination is framed through NNPs. Furthermore, the FDRE is imagined as a community, to be precise, as a community of NNPs. The preamble of the Constitution clearly spells out how the imagined community is a community of NNPs. For instance, the preamble reads,

> Further convinced that by continuing to live with our rich and proud cultural legacies in territories we [NNPs] have long inhabited, have, through continuous interaction on various levels and forms of life, built up common interests and have also contributed to the emergence of a common outlook ... Fully cognizant that our common destiny can best be served by rectifying historically unjust relationships and by further promoting our shared interests ... Convinced that to live as one economic community is necessary in order to create sustainable and mutually supportive conditions for ensuring respect for our [NNPs]

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[77] *Ibid.*, Articles 1 and 47.

[78] *Ibid.*, Article 2.

[79] *Ibid*, Article 8.

rights and freedoms and for the *collective promotion of our interests* [emphasis added].[80]

The phrase the "collective promotion of our interests" in the preamble refers to the collective interests of NNPs, not those of individuals. Therefore, the FDRE is imagined as a political community in its territorial, sovereign, and community elements that take the size, shape, and texture of NNPs.

Precisely because of the innovation of two imagined political communities in a single constitutional space, the Constitution, as Fasil Nahum rightly observes, is a "constitution of a Nation of Nations."[81] To use Nahum's words, "[t]his is not the constitution of the Ethiopian citizens simply lumped together as a people. [Instead, t]he Ethiopian citizens are first categorized in their different ethnolinguistic groupings and then these groups come together as authors of, and beneficiaries from, the Constitution."[82] The result is that individual membership of the FDRE requires prior membership to NNPs. In other words, an individual's membership of the FDRE is no longer automatic, but conditional. If we take the Constitution seriously, one has to be, for instance, a Somali, Oromo, or Amhara *first* to be a member of the political community we call Ethiopia. Without a membership to or identification with one of the NNPs, it is impossible to be Ethiopian as a matter of *constitutional design*. Viewed through the prism of citizenship, the constitutional dispensation is more confederal than federal.[83] Like citizenship in a confederation, Ethiopian citizenship is conditional upon membership to one of the NNPs that established the federation. Even if Article 6 of the Constitution says "[a]ny person of either sex shall be an Ethiopian national where both or either parent is Ethiopian," it does not say anything about how Ethiopian nationality is originally gained in the first place, i.e., how parents become Ethiopian nationals. As discussed above, being Ethiopian is essentially attached to and contingent upon being a member of one of the NNPs.

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[80]   Ethiopian Constitution, Preamble.

[81]   Fasil Nahum, *Constitution for a Nation of Nations: The Ethiopian Prospect* (1997).

[82]   *Ibid.*, 51.

[83]   See also Cohen, *supra* note 25, 157-58.

However, as a matter of practice, not everyone neatly belongs to one of the NNPs, nor are those who do not belong to or do not want to identify themselves with one of the NNPs foreign nationals. This simply means that there is a mismatch between constitutional design and Ethiopian reality related to citizenship. As it stands now, the constitutional design of two imagined political communities seems to gain even more traction as multiple ethnic nationalisms emerge.[84] As these ethnic nationalisms build their political activities and mobilizations within the constitutional prism of two imagined political communities, individuals are practically expected or coerced to identify themselves with one of the NNPs to belong to the FDRE. These individuals include those who do not want to identify with NNPs as part of their personal freedom or choice, along with those of mixed ethnic origin, who cover a larger segment of the Ethiopian population. Thus, due to the engineering of two imagined political communities in the federal constitutional dispensation, membership to one imagined political community is a precedent for membership to the other. The implication of confederal citizenship is not only that ethnicity becomes a primary site of citizenship for accessing the rights and opportunities available within the FDRE on an equal basis (which has created a favorable environment for multiple and competing ethnic nationalisms that have structured conflict throughout the country),[85] but also that federal democracy requires both the democratization of the primary political community—that is, the NNPs—and of the second one—that is, the FDRE. Yet this project of federal democracy is further complicated by the Constitution's view of identity and geography, to which I now turn.

4. Ethiopian Federalism as an Ethnocracy

Despite its official promises, what ethnic federalism constitutes is not a democracy, but an ethnocracy. According to Oren Yiftachel, who first developed

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[84] Tezera Tazebew, *Briefing: Amhara Nationalism: The Empire Strikes Back*, 120.479 African Affairs 297 (2021).

[85] For a detailed discussion see Berihun Adugna Gebeye, "Citizenship and Human Rights in the Ethiopian Federal Republic" in Adem Kassie Abebe and Amen Taye (eds.), *Reimagining Ethiopian Federalism* 9 (Ethiopian Constitutional and Public Law Series Vol. 10, 2019).

the concept, ethnocracy means government by a particular ethnic group(s), *rule by ethnos*, in contrast with government by the people in general, *rule by demos*.[86] In ethnocracies, the dominant ethnic group(s) "appropriates the state apparatus and attempts to structure the political system, public institutions, and state culture to further its control over the state and its territory."[87] The Ethiopian Constitution largely sets out an ethnocratic system both at the national and subnational levels. This means that Ethiopian federalism does not genuinely and meaningfully address the demands of all ethnic groups for equal concern and treatment in the country. While it claims to address the "question of nationalities," it only considers the demands of some ethnic groups in some places, not those of all ethnic groups in all places.[88] From the perspective of ethnic relations, Ethiopian federalism has created an ethnocratic system, rather than a democratic one.

The ethnocratic feature of the Ethiopian federation is more apparent at the subnational levels than at the national one in part due to constitutional non-enforcement (as revolutionary democracy was the "empirical constitution" of the country from 1995-2018) and in part due to a complicated constitutional architecture that hides such a feature. A good place to start decoding the ethnocratic feature of the federation at the national level is to investigate the institutional setup and composition of the federal government. The HPR is the highest authority of the federal government and is responsible to the people as a whole.[89] As noted above, the HPR is the sole legislative body of the federal government that makes laws on the 21 broad items assigned to the federal government. The HPR passes decisions by a majority vote.[90] As the Amhara and Oromo ethnic groups account for more than 64% of the Ethiopian population, according to the last national census in 2007, these two ethnic groups constitute more than half of the parliamentary seats, making all other ethnic groups perpetual minorities. Although members of the HPR, including Amhara and

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[86] Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (2006).

[87] *Ibid.*; Oren Yiftachel, *"Ethnocracy" and Its Discontents: Minorities, Protests, and the Israeli Polity*, 26 Critical Inquiry 725, 731 (2000).

[88] See *supra* note 32..

[89] Ethiopian Constitution, Article 50(3).

[90] *Ibid.*, Article 59.

Oromo representatives, are governed by "the Constitution, the will of the people, and their conscience," they may also act in the interest of their own ethnic group in ways that may jeopardize the interests of the others.[91] One may also argue that members of the HPR are representatives of districts, not the entire ethnic group as such. But these districts are still ethnic districts located in different regional states structured along ethnic lines. Hence, the design of the HPR can make the Amhara and Oromo ethnic groups the main legislators of the federation.

Similarly, the House of Federation (HoF)—the upper house of parliament, which is tasked with constitutional interpretation—is also dominated by the Amhara and Oromo representatives as population is a key consideration in its composition.[92] Like the HPR, decisions of the HoF are passed through a majority vote.[93] Here members of the HoF, unlike the HPR, are guardians of ethnic interests and are expected to place the interest of their respective ethnic groups at the forefront in the decisions of the HoF. As in the legislative process, the Amhara and Oromo ethnic groups can dominate the constitutional interpretation process. For example, even if the HPR can pass legislation in the interest of the Ethiopian people as a whole, the HoF can still strike down such legislation if it thinks that it does not advance the interests of the two ethnic groups enough. In addition, if the HPR passes legislation that largely benefits the two big ethnic groups at the expense of others, the HoF may find it constitutionally permissible. The crux of the argument here is that such an institutional arrangement of the law-making and the constitutional interpretation bodies at the national level protects, or appears to safeguard, the interests of larger ethnic groups rather than smaller ones. Because of this, Article 8 of the Constitution, which bestows sovereignty on all the ethnic groups, did not receive any meaningful expression in the architecture of the legislative and constitutional interpretation institutions. Against the central ethos of federalism, such an institutional arrangement can channel, and indeed has

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[91] *Ibid.*, Article 54(4).

[92] *Ibid.*, Article 61(2).

[93] *Ibid.*, Article 64(1).

conveyed, as we shall see below, ethnic majority rule to both law-making and constitutional interpretation in the federation.

Additionally, the parliamentary system can further advance and entrench ethnocracy. The essential feature of a parliamentary system is that the executive branch of government derives its power from and is accountable to parliament.[94] The tenure of the Prime Minister and the Cabinet depends upon the confidence of the parliament, as also reflected in the Ethiopian Constitution.[95] In such systems, there is less separation of powers between the legislative and executive branches of government. The parliament and the political party system play a huge role in the operation of parliamentary governments.[96] Ultimately, the institutional design of parliament and the nature of the political party system drive the executive branch. As the Ethiopian Parliament is dominated by Amhara and Oromo ethnic groups and the political party system operates within the orbit of ethnicity, these two ethnic groups can constitute and run the executive branch of government as they wish: They can hire or dismiss any government in the federation. Like parliament, the executive administration can be an apparatus of ethnocracy.

If this is what the Constitution provides, one might ask why the Amhara and Oromo ethnic groups did not then play a major role at the national level for almost a quarter of a century, i.e., from 1995-2018. The answer is simple. The Constitution was not practiced as it was designed.[97] This is primarily because, with a minority democratic base, the full implementation of the Constitution would have displaced the TPLF at the national level immediately after the Constitution came into force in 1995. The path the TPLF/EPRDF government chose was what the Kenyan legal scholar Okoth-Ogendo called "constitutions without

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[94] Anthony W. Bradley and Cesare Pinelli, "Parliamentarism" in Michel Rosenfeld and András Sajó (eds.), *The Oxford Handbook of Comparative Constitutional Law* 652 (2012).

[95] Ethiopian Constitution, Chapter 8.

[96] Wolfgang C. Müller, *Political Parties in Parliamentary Democracies: Making Delegation and Accountability Work*, 37 European Journal of Political Research 309 (2000).

[97] Gedion T. Hessebon, *supra* note 30, 223-27.

constitutionalism".[98] In a system of constitutions without constitutionalism, the governing elite is committed to the idea of the constitution as a source of legitimacy for the state and its governance, but it also equally rejects the practice of constitutionalism, or the enforcement of constitutional rules and values in reality. The TPLF/EPRDF government, rather than considering the Constitution as something to be implemented as a law, reduced it to a mere tool of legitimation and justification for its politics.[99]

The demise of the TPLF/EPRDF has shown how the Constitution positions the two large ethnic groups, Amhara and Oromo, as superpowers in the country and it may be instructive of what may come next. Although the TPLF/EPRDF regime stood on the tensions, historical disagreements, and rivalries between Amhara and Oromo political elites,[100] the ethnic constitutional and political party system has also made their cooperation possible. This is because, first, the alliance of these two ethnic groups both at the level of political elites within the EPRDF and at the grassroots level in the popular protest movements helped to displace the TPLF from its dominant position within the EPRDF. It is largely the alliance of these two ethnic groups, dubbed "Oromara," that brought Abiy Ahmed of the then Oromo People's Democratic Organization (OPDO) to the premiership in April 2018. Second, it is the Oromo- and Amhara-dominated HoF that rendered the September 2020 Tigray regional election unconstitutional and void. Third and finally, it was predominantly the Oromo- and Amhara-led federal government that removed the TPLF from its home region of Tigray under a "rule of law operation," although it has since regained control again.[101] While we have to wait and see how the relationship between Oromo and Amhara political elites unfolds

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[98] H.W.O. Okoth-Ogendo, "Constitutions without Constitutionalism: Reflections on an African Political Paradox" in Douglass Greenberg et al. (eds.), *Constitutionalism and Democracy: Transitions in the Contemporary World* 65-80 (1993).

[99] See Abbink *supa* note 60; Abebe *supra* note 11; Gedamu *supra* note 11.

[100] Merera Gudina, *Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy, 1960–2000* (2003).

[101] The immediate cause for the "rule of law operation" was the TPLF's pre-emptive attack on the Northern Command of the Ethiopian National Defense Force on November 4, 2020, the ultimate aim of which was either to remove Abiy Ahmed from power or to take the upper hand in the "national dialogue" this specific context would have brought about.

in the future, the Constitution gives them a large amount of power and authority at the national level that emanates from their huge population numbers and vast territory, both of which are a creation of the Constitution itself.

Table 1. Intra-regional ethnic diversity in Ethiopia

Region	Ethnic groups (% of population)						
Amhara	Amhara (91%), Agew (5%), Oromo (3%), Other (2%)						
Oromia	Oromo (87%), Amhara (7%), Gurage (1%), Somali (1%), Other (4%)						
Tigray	Tigrawi (96.55%), Kunama (0.7%), Irob/Saho (0.71%), Other (2.4%)						
SNNPR	Surma (0.17%)	Zeyise (0.10)	Gidecho (0.03%)	Arbore (0.04%)	Geleb	Kore (1.01%)	Gedeo (4.92%)
	Gurage (7.52%)	Hamer (0.31%)	Gewada (0.43%)	Basketo (0.52%)	Burji (0.37%)	Alba (1.35%)	Bena (0.17%)
	Kembata (3.81%)	Shinasha (0.01%)	Dawro (3%)	Bumi	Dime	Tembaro (0.64%)	Shekicho (0.44%)
	Kafficho (5.43%)	Wolaita (10.71%)	Gacho	Nao (0.05%)	Tsemay (0.13%)	Hadiya (8.02%)	Alba (1.35%)
	Qebena (0.29%)	Gamo (6.96%)	Derashe (0.19%)	Bench (2.33%)	Yem (0.5%)	Konta (0.54%)	Amhara (2.79%)
	Konso (1.46%)	Sidama (19%)	Me'enite (1%)	Mareko (0.38%)	Oida (0.05%)	Ari (1.89%)	
	Gofa (2.39%)	Oromo (1.57%)	Silte (5%)	Desenech (0.32%)	Surma (0.11%)		
Afar	Afar (90.3%), Amhara (5.22%), Argoba (1.5%), Other (2.98%)						
Gambella	Anyawaa (21.17%), Nuer (46.65%), Mejenger (4%), Amhara (8.42%), Oromo (4.33%), Other (18%)						
Benishangul-Gumuz	Berta (25.90%), Gumuz (21.11%), Shinasha (7.5%), Mao (2%), Koma (1%), Agew (5%), Amhara (21.25%), Oromo (13.32%), Other (2.92%)						
Harari	Harari (8.65%), Oromo (56%), Amhara (22%), Somali (3.87%), Gurage (4%), Other (2.92%)						
Somali	Somali (97%), Other (3%)						

Source: FDRE Population Census Commission (2008).[102] *NB: This is the most recent official data available as Ethiopia has not conducted a national census since 2007.*

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[102] Zemelak Ayitenew Ayele, *Local Government in Ethiopia: Advancing Development and Accommodating Ethnic Minorities* 122 (2014).

Ethnocracy is more apparent and practiced, even, at the subnational levels. Although Ethiopia includes more than 80 ethnolinguistic groups, they were originally supposed to live within nine regional states. This means that not every ethnic group has received its own regional state status. Indeed, many of the ethnic groups (around 56 of them) were lumped together under the Southern Nations, Nationalities and Peoples Region (SNNPR), and other regional states also host many ethnic groups together.

The recent secession of the Sidama and the Southwest Ethiopian People's Regional State from the SNNPR increased the number of member states to 11. In particular, seven of the regional states (the states of Tigray, Afar, Amhara, Oromia, Somalia, Harari, and Sidama) out of 11 are named after a major ethnic group. The notable exception in this regard is the state of Harari, named after the minority Harari ethnic group, which constitutes 8.65% of the population of the Harari state. The constitutions of these regional states have created a socioeconomic, cultural, and political order for the ethnic group after which they are named despite the presence of different ethnic groups in all these states, as the above table shows. In practice, in these states, the dominant ethnic group considers their respective states to be their own "ethnic homeland" that primarily belongs to them and them alone. As the plethora of scholarship on this issue attests, minority ethnic groups in different regional states have been rendered "second-class citizens at best and unwelcome aliens at worst" and have been subjected to an ethnicized "local tyranny."[103] These regional ethnic minorities have become "foreigners" in their own country with almost no place in the socioeconomic, cultural, and political order of the states in which they reside: From exclusions and discriminations in political life and civil society, to severe restrictions in access to economic opportunities and social services, to forceful expulsion and the destruction of their

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[103] Solomon A. Dersso, *Taking Ethno-Cultural Diversity Seriously in Constitutional Design: A Theory of Minority Rights for Addressing Africa's Multi-Ethnic Challenge* 215 (2012); Assefa Fiseha, "Theory versus Practice in the Implementation of Ethiopia's Ethnic Federalism" in David Turton (ed.), *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* 136 (2006, James Currey).

property, to even their massacre and ethnic cleansing.[104] Here, almost every ethnic group is a victim if they live in a different region or do not have a region of their own, which is predominantly the case in the country.

The four remaining regional states that are not named after a single ethnic group are also ethnocratic. For example, the Benishangul-Gumuz regional state constitution identifies five ethnic groups as sole owners of the regional state, although there are many ethnic groups who live there in large numbers, as can be seen from the table above.[105] Ethnic groups other than "the sole owners of the region" have been pushed to the periphery in the socioeconomic and political life of the region at best, and the subject of ethnic cleansing, displacement, and massacre at worst.[106] While the Southwestern Ethiopian People's Region and the SNNPR are multiethnic at the regional level, the various zones that constitute the regions each predominantly belong to one ethnic group and consequently exclude other ethnic groups from political life and civil society, as in other regional states.[107]

Therefore, from the perspective of ethnic relations, the Ethiopian federation is an ethnocratic system that serves or claims to serve the interests of some ethnic groups at both the national and subnational levels. As noted at the beginning, while ethnic federalism claims to address the "question of nationalities," it simply considers the demands of a few ethnic groups in some areas, not those of all ethnic groups in every place. Additionally, ethnic identity and geography determine what sorts of rights and duties one has as a citizen. For example, an Amhara, Oromo,

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[104]   See Dersso, *supra* note 103, 216; Takele Bulto, *Wolf in sheep's clothing? The Interpretation and Application of the Equality Guarantee under the Ethiopian Constitution*, 26 Afrika Focus 1, 11–35, 2013; *supra* note 102.

[105]   Benishangul-Gumuz Constitution, 2003, Article 2.

[106]   See Aweke Amare Kenaw, *One Country–Two Citizenships: The Status of Settlers in Benishangul-Gumuz Regional Sates (BGRS) of Ethiopia*, 0 African Identities 1 (2020). United Nations, "Ethiopia Humanitarian Country Team Visits Metekel Zone of Benishangul Region to See Humanitarian Situation, Response," United Nations, (23 April 2022), https://ethiopia.un.org/en/179072-ethiopia-humanitarian-country-team-visits-metekel-zone-benishangul-region-see-humanitarian.

[107]   Christophe Van der Beken, *Federalism in a Context of Extreme Ethnic Pluralism: The Case of Ethiopia's Southern Nations, Nationalities and Peoples Region*, 46 VRÜ Verfassung und Recht in Übersee 3 (2013).

or Somali can be a *citizen* in his/her own regional state, but a *subject* in a different one. The decentralized ethnocracy has created *ethnic groups that could be citizens* and *ethnic groups that could be subjects*, somehow akin to what Mahmood Mamdani called the "decentralized despotism" that characterizes the legacy of colonialism in much of Africa.[108]

Conclusion

This article has shown that Ethiopian federalism is so much more than ethnic federalism, and even more than federalism itself. It has revealed the four faces of Ethiopian federalism, the unitary, federal, confederal, and ethnocratic, that have brought about a novel constitutional experiment in a "new state system." The experiment with such a federal system for more than a quarter of a century did not bring democracy, nor did it address the concerns over treatment of both ethnic groups and individuals throughout the country. It also failed to resolve the "issue of peace and war," the overarching goal of the 1995 Constitution according to its chief architect, the late Ethiopian Prime Minister Meles Zenawi.[109] Twenty-five years after the adoption of the Constitution, Ethiopia is at war with itself, again in Tigray, the epicenter of conflict some three decades ago. Pursuing constitutionalism within such a federal arrangement could further entrench an ethnocracy, not a democracy, at both the national and subnational levels. While the legitimacy deficit associated with the Constitution may be a sufficient reason to undertake a constitutional reform,[110] its unitary, confederal, and ethnocratic features could be even stronger reasons to revise and rethink some of its normative assumptions and institutional features. With this federal structure, it is difficult, if not impossible, to operate a democratic state and government within a competitive multiparty system that equally respects and protects the rights of all individuals and all ethnic groups at both the national and subnational levels. Thus,

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[108] Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (1996).

[109] Meles Zenawi as quoted in Lovise Aalen, *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000*, R 2002:2 CMI Report 40 (2002).

[110] Hessebon *supra* note 30.

it may be advisable to reform the federal system to ensure peace and practice democracy in one political and economic community. If constitutional reform is pursued, then it should seriously consider and engage with the four faces of Ethiopian federalism this article has expounded.

DISCUSSIONS

Dr. Solomon Nigussie — Discussant

Thank you Berihun for your clear presentation and succinct framing of the most important issues. By agreeing with you on most points, I will focus on the most important issues which I think should be discussed.

One issue is, there are people who argue that the Ethiopian federation guarantees the rights of cultural and religious groups and that this is its main feature. The other point is, whether we call it multicultural federalism or some other type of federalism, where do we go from here after this experiment of three decades? I think we have reached the extreme; by practicing this federalism the county is on the verge of collapse. So, "where do we go from here?" is a question I ask. We have to make fundamental decisions regarding the organization of the Ethiopian State. Debating on constitutional democratic culture has no point; we really do not have the right form to address this issue.

The other issue is the question of citizenship. If we see the situation of citizens in confederations, they know their rights and limitations in other member states of the confederation. But in the case of Ethiopia the Constitution doesn't guarantee the individual right of someone outside their home regional state and we have to address this issue.

You have emphasized the constitutional provisions pertaining to the economic aspects. But what aspect of it can be strengthened? Let us look at the land rights

issue in the politics of this country. I think the politics and economy of this country is choked by the land issue: whose right is it to own land? The political class fully controls land and through land manipulates the oppressed, be it in rural or urban areas. The land issue is very serious and needs to be addressed seriously. It lacks clarity in the practice of federal democracy and separate research is needed on this issue in our country.

The other point which you raised is that of federalism as convenience rather than constitutional principle, and you preferred to use the U.S. constitution as a model to forge a perfect union. Can we think of making it indigenous by using local concepts like ubuntu in the South African constitutional practice (aspiring to ensure an equal living standard for their children)? Can we think similar provision in Ethiopian constitution?

Another argument you made is that Ethiopian federalism centralizes much of the power by denying regional states financial and political power. Yes, it does so, in fact; but is this done in terms of constitutional provisions? I think it is more a problem of practice. But I do see two contradictory aspects of the centralization tendency. One, had it not been for the centralized approach—having constitutional provisions which you referred to as "a federation of convenience," wherein it assures the secession power to the constituent units—how would the federation have survived? Secondly, for example, states are arguing for up to 90% of the concurrent tax to be given to them. What does this mean? How can the federal government discharge its responsibilities under Article 51 of the Constitution?

Dr. Mulugeta Mengist

On your idea of having a serious federation more than having a federation of convenience you raise the issue of self-determination. I do not have a problem with self-determination in general. But the right to secession renders the whole federation a federation of convenience. I would like to raise the practical problems which arise from having a secession clause in the Constitution. From my experience in the Prime Minister's office for five years, I would like to mention

that the right to secession squanders capital. If we read the Constitution, the whole purpose of the coming together is to create a single political and economic community and the creation of it is essential to have a lasting peace and to sustain democracy and rapid economic progress. Yet the existing approach squanders capital. If you look at how the federal government allocates its limited capital budget, the formula is simple, entailing one industrial park for every region and one university for every region, and that is due to the pressure coming from the regions. In principle there is no problem if we establish our industrial parks in Afar or Oromia, closer to port of Djibouti. But in practice there is the problem of mistrust arising from the recognition of the right to secession.

The second problem with secession is, it weakens resistance to abuse of governance. The whole philosophy of federal arrangement is that separately we will be too weak to resist bad governance or dictatorship. The whole purpose of coming together is responding to abuse in common. The Constitution premises on the common struggle of the Ethiopian people against oppressors to create a lasting peace and democracy together. Ironically, the Constitution very much lowers the exit threshold from the covenant. Some of the actors in the federation may choose to leave the federation whenever they think staying in the federation is not in their best interest, rather than working together to address the problem in the federation. Berihun, it would be good to reflect on this effect of the right to secession.

Dr. Yonatan Fessha

In your paper you attributed the centralization of power to the design of the Constitution. I am not sure the centralization comes from the constitutional design. If you look at the division of power in the Constitution, it gives explicit power to the federal government and gives residual power to the states. This is an indication that the federation favors the subnational units. The other indicator is that, yes there are broad powers given to the federal government, but on closer reading the broad powers given to the federal government are mostly limited to setting national standards and basic policy criteria. There is little or no concurrency in the Constitution and I also fail to see why you did not consider

other factors like the national interest and national uniformity, which often allows the central government in federations to interfere in state affairs. Yes, there is a clause in the Constitution that allows the federal government to enact on matters of civil law but even in that case it is with the permission of the HoF, which is supposed to be the house of the constituent units; so, in this regard even the regional states are participating in the law-making process.

Dr. Adem Kassie Abebe

What are the parameters by which one can say a federation is centralized or not?

The Unbearable Thinness of National Citizenship in a Country Organized as a "Nation of Nations": The Case of Ethiopia

Prof. Adeno Addis

Abstract

Constitutions are meant to bind people together, to turn hard parameters into soft ones over time. Well-designed and well-structured constitutions seek to transform strangers to co-participants in a common project of building a political community that will endure. One important means of institutional binding is citizenship. Citizenship is meant to signal full membership and equal standing to those who possess that rank. The moral promise of equal respect for everyone is meant to be cashed out in the legal and social currency of equal citizenship. Citizenship is also meant to perform an integrative function such that citizens see themselves as co-participants in a common project. This article explores the scope and content of Ethiopian national citizenship under the current constitutional arrangement. It argues that, unlike in other federal systems, Ethiopian national citizenship is derivative and thin and provides neither full membership to nor equal standing for all members across the land. It does not provide a safeguard for the autonomy of all citizens to an equal degree. The Constitution transformed a nation of citizens into a nation of nations where the central source of affiliation is the "citizenship" in the several *ethnonations* rather than national citizenship. After a close examination of the Federal Constitution and the constitutions of some of the regional states, this article concludes that such an arrangement does not bode well for the long-term survival of the national political community, for under it differences will increasingly become fundamentalized and consequently the hope for an integrative (not assimilative) process of association will fade.

Introduction

This article explores the scope and content of Ethiopian national citizenship under the current constitutional arrangement both as a matter of text and political

practice. This inquiry seeks to understand the contents of national citizenship in the circumstances of an ethnically organized federal state where the constituent parts of the federation are referred to as "nations, nationalities and peoples"[1] and where all sovereign power is said to reside in them, not in "we, the Ethiopian people." In fact, the Constitution itself is described as "an expression of [these ethnonations'] sovereignty." Put differently, the issue explored here is the nature of national citizenship in a country reorganized and described as "a nation of nations,"[2] rather than a nation of citizens.

After a close and careful examination of the relevant text of the Federal Constitution and the constitutions of some of the regional states (and the political practices that accompany them), this article concludes that the constitutional and political incentives are organized in such a manner that under the current constitutional order Ethiopian citizenship is, and will continue to be, incapable of performing the important functions that national citizenship is meant to perform.

National citizenship, as a normative matter, is meant to guarantee *full membership* and *equal standing* to all members across the country. It is also meant to perform the important role of cultivating and sustaining political and social *integration* to the extent that citizens see themselves as co-participants in a common project.[3]

As will be apparent as we work through the constitutional arrangement, Ethiopian national citizenship does not seem to guarantee *full membership or equal standing*

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[1] Eth. Const. pmbl., art. 8. I will often use "nations" to save time when referring to "nations, nationalities and peoples." After all, the Constitution itself gives the three terms the exact same description (art. 39[5]).

[2] Fasil Nahum, *Constitution for a Nation of Nations: The Ethiopian Prospect* (1997).

[3] Bryan S. Turner, *Outline of A Theory of Citizenship*, 24.2 Sociology 188, 199 (1990): ("[C]itizenship is a strategy which brings about some degree of amelioration of social conflict and which is therefore a major contribution to social integration.") See also Irene Bloemraad, *Theorising the Power of Citizenship*, 44 Journal of Ethnic and Migration Studies 4, 16 (2018). By full membership, I mean to refer to the fact that citizenship is meant to endow members holding that title with the most robust and highest status of membership. On the other hand, by equal membership or equal standing I mean to refer to the normative requirement that the rights, privileges, and responsibilities that come with citizenship be available to all with that title.

to all in every part of the country. In the various regional states, some Ethiopians are regarded as the primary stakeholders, while other Ethiopians are considered mere residents or second-class citizens. This phenomenon apparently takes its cues from the Federal Constitution.[4] The political practices accompanying those basic documents (national and regional constitutions) show that a distinction is often made between members of the relevant ethnonation (ethnic group) and Ethiopian citizens who are deemed to belong to other ethnic or linguistic groups.[5] The frequent identity-based murders and displacements of Ethiopians from one or another part of the country, carried out on the account that they "did not belong," illustrate that Ethiopian citizenship is not sufficient—at least it is thought not to be sufficient—to guarantee full membership and equal standing to all in all parts of the country.

In relation to the *integrative function*, it seems clear that Ethiopian national citizenship has not fared well. Under the current constitutional order, ethnic differences seem to be increasingly *fundamentalized,* not softened. Ethnic identities have increasingly become hard parameters. Most issues are often viewed through the prism of ethnic identity. Indeed, for many, practicing politics has become nothing more than a process of affirming or defending the worth of one's "nation" (ethnic group). Constitutions generally and citizenship specifically are meant to bind people together, to turn hard parameters into soft parameters over time. As has become apparent, the Ethiopian constitutional order has done exactly the opposite. It has set people apart by virtue of transforming soft parameters into hard ones and reducing people's multiple and often hybrid identities into one overriding one (ethnic identity).

This intensification of the politics of difference and the thinning of national identity that we observe occur not despite the constitutional arrangement but because of it. The Federal constitutional order, reinforced by the constitutions of the several regional states, entrenches the conceptual and institutional limitations

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4   Eth. Const. pmbl., art. 8, art. 39.
5   *Infra* Constitution of the Regional State of Oromia, 1995; Constitution of the Regional State of Benshangul/Gumuz, 1995; Constitution of the Regional State of Harari, 2004.

of Ethiopian (national) citizenship. It shows, to paraphrase the political theorist Hannah Arendt in another context, "the abstract nakedness,"[6] the unbearable thinness, of Ethiopian national citizenship under the current arrangement.

The narrative of the "ethnic Other" is told and retold in the context of a constitutional culture that has made ethnic identity the primary means through which politics is organized, understood, and practiced. The Ethiopian Constitution has become the main means of *sorting* people, not binding them together. Such an environment will not lend itself to democratic governance or even a minimally stable and durable national political community.[7]

This article is organized in the following manner. Section one briefly describes the nature of citizenship and the functions that it is meant to perform. Citizenship is the primary social good of membership to a state through which one has access to all other goods, material or social. It is the right to have all other rights, as Arendt would say.

Section two, which is the heart of the article, closely examines the nature of national citizenship in a country that is said to be a nation of nations rather than a nation of citizens. The section compares Ethiopian national citizenship to national citizenships of other countries which, like Ethiopia, have adopted a federal system. It shows that unlike the robust national citizenships in those other federal systems, Ethiopian citizenship is derivative and thin, resembling the citizenship in a confederal rather than a federal system. It seems closer to the citizenship of the European Union than it does to the citizenships of federal systems such as India, Nigeria, Germany, the U.S., or even Switzerland.

Sections three and four briefly examine two circumstances (internal displacement and the difficulty of entrenching a democratic culture) to show how ethnic

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6 Hannah Arendt, *The Origins of Totalitarianism* 295 (1951).

7 I have made similar arguments in Adeno Addis, *The Making of Strangers: Reflections on the Ethiopian Constitution*, 38 Journal of Developing Societies (forthcoming, 2022). See also Adeno Addis, "The Making of Strangers: The Ethiopian Constitution as a Suicide Pact," Ethiopia Insight, (September 18, 2020).

federalism is, in the way that it is entrenched in Ethiopia, a dissociative rather than an integrative order and, therefore, inherently unstable.

Section five concludes by noting that a constitutional order that has a chance of sustaining a stable and coherent national political community is one that establishes a nation of citizens rather than "a nation of nations," one that puts the dignity of citizens at the center of the constitutional enterprise. But that has to be done in the context of a federal system which is sensitive to and accommodative of the country's rich diversity. As I shall indicate later, despite common misunderstanding, integration and accommodation (not assimilation) are not contradictory or radically opposed principles or normative commitments. Indeed, they assume one another. And a federal system for a diverse society will have to gesture in both directions. My past work has attempted to show that to be the case.

1. Citizenship: A Brief Conceptual and Functional Description

One of the most important functions of constitutions is to indicate, either explicitly or implicitly, the conditions that define membership in the political community we call the state. Who is a member of the political community, what are the conditions for membership, and what are the privileges and responsibilities that attach to membership?

Citizenship—or nationality as it is referred to in international law[8]—is a core concept both as a matter of law and as a subject of political theory. It is the means by which a political community distributes the primary social good of

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[8] The nature of nationality was explained by the International Court of Justice (ICJ) in *The Nottenbohm Case* (Liechtenstein v. Guatemala), Second Phase, 1955 I.C.J. Rep. 4 (Apr. 6). The current authority of the idea of a "genuine link" that was advanced by the Court as a standard by which to evaluate whether a particular individual had acquired the nationality of a country is unclear. Although I will use nationality and citizenship interchangeably here when writing about national citizenship, there are times when a distinction might be appropriate when one talks about the citizenship of subunits (nations, as they are confusingly referred to in the Ethiopian Constitution).

membership[9] which in turn determines the rights and responsibilities that membership endows or entails.

Arendt famously described nationality as the "right to have rights."[10] By that she meant that the right to nationality gives an individual access to all other rights, whether those rights have an international or national origin. Even our rights as human beings (often referred to as "inalienable"), which are catalogued in international and regional human rights documents, will not amount to much unless we are members of a political community. It is in these political communities that those rights will be vindicated or enforced. It is to capture this reality that Arendt made the arresting observation that statelessness (the condition of having no nationality[11]) shows "the abstract nakedness of being human."[12] Rainer Bauböck flags this Arendtian point when he observes that "to put it positively: membership in a polity is a necessary condition for human autonomy and well-being."[13] It is important to note that Bauböck does not say it is a sufficient condition, but rather *a necessary* condition. It is not a sufficient condition because we know, and history amply illustrates, that *de jure* citizenship (legal membership) does not necessarily guarantee that as a matter of political practice (*de facto*) one is treated as a full citizen (full member). Often, the crucial question is not who *is* a citizen as a formal matter, but rather "what *makes* the

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[9] Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* 6-8 (1983).

[10] Arendt, *supra* note 6, 294.

[11] Statelessness is defined in the Convention Relating to the Status of Stateless Persons thusly: "The term 'stateless person' means a person who is not considered as a national by any state under the operation of its law" (United Nations Convention Relating to the Status of Stateless Persons, art. 1[1], Sept. 28, 1954, 360 U.N.T.S. 117).

[12] Referring to the French Declaration of the Rights of Man, Arendt makes the following rather astute observation:
"The Rights of Man … had been defined as 'inalienable' because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them" (Arendt, *supra* note 6, 288). A few pages later, referring to the stateless who had been denationalized by the Nazi regime, she notes, "[t]he world found nothing sacred in the abstract nakedness of being human" (*Ibid.*, 295).

[13] Rainer Bauböck, *Democratic Inclusion: Rainer Bauböck in Dialogue* 40 (2018).

citizen?"[14] Citizenship is a way nationhood is experienced in practice. As we shall see later, in the case of Ethiopia both questions—who is a citizen as a formal matter and what makes a citizen?—are crucial, and the answers one gets to those questions are decisive.

If human rights (national or international) are meant to affirm the dignity and inviolability of the individual as a moral being, the argument goes, citizenship affirms the dignity of the individual as a member of a political community.[15] Indeed, in the world in which we live (one almost entirely carved into states with mutually exclusive jurisdictions) the dignity of the citizen often makes the dignity of the individual, as a human, possible. Put in other ways, our human dignity is in large measure dependent on the dignity of being a citizen—being a full member of a political community both at the national and subnational levels.[16] The protection of the political and social person is a necessary condition for the protection of the moral person. Citizenship as the right to have rights is the gateway to all other rights. It is because of the fundamental nature of citizenship,

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[14] Engin F. Isin, *Citizenship in Flux: The Figure of the Activist Citizen*, 29.1 Subjectivity 367, 383 (2009).

[15] Immanuel Kant is one of the most important political philosophers who took seriously the dignity of citizenship. In *The Metaphysics of Morals* Kant observed: "[c]ertainly no human being can be without any dignity, since he at least has the dignity of a citizen" (Immanuel Kant, "The Metaphysics of Morals" in *Practical Philosophy* 471 (6:329) (Mary J. Gregor ed., 1999), 471 (6:329). Kant, of course, did not think about or imagine statelessness. I am working on a book-length manuscript on statelessness and internal displacement tentatively entitled "The Dignity of Belonging and the Indignity of Displacement." Jeremy Waldron has penned a paper on the relationship between dignity and citizenship (Jeremy Waldron, "Citizenship and Dignity," N.Y.U Sch. of L., Pub. Rsch. Paper No. 12-74 [2013]).

[16] Arendt, *supra* note 6, 289 ("[T]he loss of national rights [for the stateless] was identical with loss of human rights, that the former inevitably entailed the latter.") Recognition of the person as a legal entity which citizenship provides ensures the integrity of the moral person. By "subnational" entities, I mean to refer to units in a federal system, such as the various states that make up the federation in countries such as Ethiopia and the United States of America. Of course, the Ethiopian Constitution refers to those units as "nations, nationalities and peoples" which might be confusing, but when I refer to subnational units, I mean to include those units that are referred to as nations, nationalities and peoples in the Ethiopian constitutional scheme as well.

its importance as the right to have all other rights, that I, following Michael Walzer, have referred to it above as a *primary social good*.[17]

As a normative matter, citizenship defines not just the relationship between the state and individual members but the relationship among members as well. As citizens, members are "one another's equal," to borrow a phrase that Jeremey Waldron uses in another context.[18] At least, that is the general normative demand.[19] Not only are they one another's equal, but through citizenship individuals are directly linked as co-participants in a common project.

Often the details of how one becomes a citizen as a legal matter are specified through ordinary legislation,[20] but the general principles are often entrenched in, or implied by, the basic law (the constitution).

As I have already mentioned, two general principles are embodied in the notion of citizenship. First, citizenship is a status that signals that the person with that rank is a *full member* of the relevant political community. Citizenship signals the highest and most robust membership rank or category.

In a constitutional system where "we, the people" are sovereign, citizens are both the originators and the addressees of the law.[21] They are the originators because

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[17] The notion of primary goods was made popular by John Rawls, See, for example, John Rawls, "Social Unity and Primary Goods," in *Utilitarianism and Beyond* 159 (Amartya Sen and Bernard Williams eds., 1982); John Rawls, *Political Liberalism* 178-90 (1993). However, my use of primary social good is closer to Michael Walzer's than it is to John Rawls'. See Walzer, *supra* note 9.

[18] Jeremy Waldron, *One Another's Equal: The Basis of Human Equality* (2017).

[19] Some countries make a distinction among citizens for some purposes. Thus, for example, the Constitution of the United States provides that only "a natural born Citizen … shall be eligible to the Office of President." U.S. Const. art. II(1) cl. 5. That means that naturalized citizens are excluded from assuming the office of the president. But such constitution-based distinctions among citizens are, and ought to be, rare.

[20] Article 6 (3) of the Ethiopian Constitution says as much. See also art. 33, art. 51 sec.17, art. 55 (2) cl. e.

[21] Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* 415 (William Rheg trans., 1996). See also *ibid.*, 449 "[C]itizens should always be able to understand themselves also as authors of the law to which they are subject as addressees." See

citizens, through their elected representatives, adopt the laws that are meant to regulate their lives as member of the political community. They are addressees, because the laws so enacted are meant to respond to the needs and concerns of those very citizens. At least, that is the normative demand.

Second, citizenship, as a general normative matter, affirms the status of *equal membership*. Citizens are one another's equals, both as participants in the affairs of the political community and as beneficiaries of the rights and privileges recognized and accorded to those holding that rank. When people talk about "second class citizenship" it is not to indicate that there are legitimate ranks of citizenship, but rather it is a critique of the relevant political community's failure to meet the normative demands of citizenship—equal status among all those holding the rank of citizen. The critique contained in or implied by the notion of "second class citizenship" signifies that there is only one rank to which all those with the rank of "citizen" are admitted. A community of citizens is a community of equals.

A third (functional) principle that is often associated with citizenship is the role that citizenship plays in performing the vital function of *national integration*. Citizens are (or are meant to see themselves as) *co-participants in a common project*. An integrative function is not to be confused with an assimilative process. An integrative process is coordinative while an assimilative process, on the other hand, is subordinative. I pursue this in another paper on federalism for fractured societies.

As I shall show in the next section, under the Ethiopian Federal Constitution and the several constitutions of the regional states, however, Ethiopian national citizenship does not meet either the normative demand (full membership and equal standing) or functional role (integrative role) it is meant to play.

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also Jürgen Habermas, *The Inclusion of the Other: Studies in Political Theory* 215 (1996). He writes: "The citizens are autonomous only if the addressees of the law can also see themselves its authors."

2. Citizenship in a Federal System

2.1. The nature of federal citizenship

Ethiopia is not unique in having a federal system where sovereignty (political authority) is split between a central government and the units of the federation, between the nation-state and "subnational" communities or "nations" in the confusing terms of the Federal Constitution. Indeed, there are about 25 countries, representing 40% of the world's population, which have adopted a federal system.[22] Nor is Ethiopia any different from other federal arrangements in recognizing a system of dual citizenships. There are many federal systems, including the United States, which recognize subnational citizenship in addition to the national citizenship. Switzerland in fact recognizes three levels of citizenship—Municipality, Canton, and Swiss citizenships—as a constitutional matter.[23]

What makes the Ethiopian federal system and, consequently, the system of dual citizenship rather unique and perhaps dangerously destabilizing is the constitutional fact that the subnational units are called nations and organized along ethnic lines. Political affiliation to those ethnic nations is constitutionally affirmed as the primary political identity,[24] while national citizenship is implicitly regarded as derivative and secondary.

In most federal systems, the relationship between national and subnational citizenship is clear. Because almost all federal constitutions' preambles open with "we, the people" or its variations (such as "the people of country x") as the

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[22] They included some of the most populous nations such as Brazil, India, Mexico, Nigeria, and the United States.

[23] Bundersverfassung [BV] [Constitution] Apr. 18, 1999, art. 37 (1) (Switz.). The Swiss federation is composed of 26 cantons and over 2700 communes.

[24] Read the Preamble, Article 8, and Article 38 (5) together and that will be the conclusion you would be compelled to arrive at. Eth. Const. pmbl., art. 8 and art 38 (5).

sovereign,[25] it is national citizenship that is regarded as the primary bond sustaining a political community of diverse peoples. The undifferentiated "we, the people" (singular) ordain and establish the constitutional order that is meant to regulate the life of the political community. Individual citizens are linked directly as coparticipants in a common project, unmediated by a subnational identity as the Ethiopian Constitution requires.

Take, for example, the nature of citizenship in the United States Federal Constitution. The Fourteenth Amendment to the Constitution provides that any person "born or naturalized in the United States, and subject to the jurisdiction thereof" is a citizen of "the United States and of the State wherein [she] reside[s]."[26] The order seems clear. One becomes a United States citizen and, by virtue of that, he or she also becomes a citizen of one (of the several) states in which he or she chooses to reside; that is made clear in the text itself. Putting it differently, state citizenship is dependent on U.S. national citizenship.

To be an American is the primary political identity.[27] Americans are meant to enjoy full, equal, and universal citizenship (equal standing), at least as a formal matter, regardless of where (in what state) they have decided to settle. The regulatory and political measures of states should be consistent with that central principle.[28] That, of course, does not mean that state citizenship is therefore empty. Each state governs its members directly, and it might develop its

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[25] Even the Swiss Constitution, which some supporters of the current system of ethnic federalism in Ethiopia cite as support, recognizes (unlike its Ethiopian counterpart) the sovereignty of the Swiss people (singular). The preamble declares it is "We, the Swiss people and Cantons" who ordained and adopted the Constitution. The Swiss people as an undifferentiated whole are sovereign. Again, unlike the Ethiopian Constitution, which lodges sovereignty "in the Nations, Nationalities and Peoples [plural]," the Swiss Constitution declares that the federation is made up of the Swiss People and the Cantons." (Bundersverfassung [BV] [Constitution], 1999, art. 1 [Switz.]).

[26] U.S. Const. amend. XIV. Note here, the Amendment does not say "where he was born," but where he resides.

[27] Of course, it does not mean that Americans are not divided. They are—primarily ideologically. Each ideological group claims that he or she is a more faithful American.

[28] Equality is also reinforced by the equal protection clause of the Fifth and Fourteenth Amendments.

jurisdictional relationship with its citizens differently from other states in relation to various policy and administrative matters. The only point here is that that relationship has to be consistent with the demands of American citizenship. A state must treat all American citizens within its jurisdiction as one another's equal and treat them with equal concern, both as a matter of text and of political and administrative practice. There are no "indigenes" and "settlers" among citizens, at least as a formal and textual matter.[29]

The reverse seems to be the position adopted by the Ethiopian Constitution. Ethnonational citizenship becomes the primary political, not just social, identity and a necessary condition for Ethiopian citizenship itself. Apparently, it couldn't be otherwise, given that all sovereign power is said to reside in the ethnonations. Members of those nations came to the union not as individuals but as nationals (members) of those ethnonations. Herein lies the resemblance to a confederation.

2.2. National citizenship in the Ethiopian constitutional scheme: Derivative and thin[30]

Adopted in 1994, the current Ethiopian Constitution reorganized the country into a nation of *sovereign* "nations, nationalities and peoples,"[31] a "nation of nations."[32] As explained earlier, it is not "we, the Ethiopian people" who are sovereign but rather we "the nations, nationalities and peoples."[33] One is conceptually and often

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[29] The issue concerning Native Americans (and the reservations in which they reside) raises a whole host of other questions that need not detain us here.

[30] By "thin" I mean to refer to the notion of citizenship as mere status (Chantal Mouffe, "Democratic Citizenship and the Political community," in Chantal Mouffe [ed.], *Dimension of Radical Democracy: Pluralism, Citizenship, Community* 225, 227 [1992].

[31] Eth. Const. pmbl., art. 8.

[32] The author who coined this phrase made the observation in the context of explaining what the author believed was the document's innovative virtue.

[33] See Eth. Const. art. 8. Those three terms (nations, nationalities, and peoples) are defined in Article 39(5). *Id.* Apparently and confusingly, all three have the same meaning. Why the Constitution lists three different terms if they mean the same thing is never clear. At any rate, the Constitution defines those terms this way, "for the purpose of this Constitution," these terms refer to "a group of people who have or share large measures of a common culture or similar custom, mutual intelligibility of language, belief in a common or related identities [sic], a common psychological

institutionally required to belong to one of those nations if one is to be recognized as Ethiopian. That is so because there is no Ethiopian citizenship, at least for domestic purposes, that cannot ultimately be anchored in the constituent nations where all sovereignty resides. For the Constitution, there is no such thing as an undifferentiated Ethiopian people. That was precisely the message of the identity cards which were issued by many administrative units which required that one identify the ethnonation to which one belonged as a condition of recognition. "An Ethiopian" was not considered to be a sufficient mode of identification.

This constitutional transformation has had a significant impact on both what it means to be an Ethiopian citizen and the capacity of that citizenship to capture the three important ideals that citizenship is meant to embody and promote. In the following subsection, I shall examine selected articles of the Constitution in some detail to show how Ethiopian citizenship is derivative and thin.

2.2.1 The Preamble: Who is the sovereign?

Let us start from the beginning with the preamble to the Ethiopian Constitution, which tells us who the sovereign is who has adopted or granted the Constitution or on whose behalf the document was ordained and adopted. The preamble tells us that it is "We, the Nations, Nationalities and Peoples" in "full exercise" of their sovereign right that came together to build "a political community" and to live "as one economic community."[34] The Constitution is said to be "an expression of their sovereignty."[35] To think about "nations" as political communities is to imagine political entities with nationals as a social and political matter. People came together as members of nations, not as individuals and citizens, to reconstitute Ethiopia.

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make-up, and who inhabit an identifiable, predominantly contiguous territory." "[C]ommon psychological make-up" and "related identities," are phrases that are not models of clarity.

[34] Eth. Const. pmbl.

[35] Eth. Const., art. 8.

The preamble tells a story of an Ethiopia that is a federation—many would say a confederation[36]— of sovereign nations.[37] These ethnonations formed the federation while also retaining the right to become fully sovereign countries if they decide that the federation no longer works for them. Under Article 39(1) of the Constitution, "[e]very Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the *right to secession*." All a "nation" needs to do is "demand" that the process of divorce begin, and the process shall start. The idea of *secession on demand*, which is a very rare concept in world constitutionalism,[38] makes sense only when one understands that Ethiopia is really a collection of "would-be" nation-states rather than a federation of sub-political entities. Indeed, it is not accidental that the only other two basic documents (constitutions) whose preambles begin "we, the peoples," in the plural, are constitutions establishing international organizations whose members are nation-states.[39] In every constitution currently in force which has a preamble (and most do) the sovereign authority who adopted and ordained the constitution is "we, the people" [singular], not "we, the peoples" and even much less "we, the nations, nationalities and peoples."[40]

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[36] See, for example, John Cohen, *Ethnic Federalism in Ethiopia*, 2.2 Northeast African Studies 157-58 (1995): ("[T]he term 'federal' is used even though some knowledgeable observers argue … that even if the 1994 Constitution labels the new country as a federal state it is in fact based on a constitutional system more akin to 'confederation'").

[37] See note 33.

[38] See Tom Ginsburg & Mila Versteeg, From Catalonia to California: Secession in Constitutional Law, 70 Ala. L. Rev. 923 (2019). The authors list only five constitutions currently in force which have a secession clause and almost all of them were dealing with a one-off issue or issues very dissimilar from those Ethiopia faces.

[39] See, e.g., U.N. Charter, June 26, 1945, pmbl. ("We, the Peoples of the United Nations") To be sure there is another national constitution which uses "peoples." The Bosnia-Herzegovina Constitution refers to the Croat, Bosniac, and Serb peoples, but unlike the Ethiopian Constitution it also adds that the undifferentiated citizens of Bosnia-Herzegovina played an equal part in the adoption and ordaining of the Constitution (see Bosnia-Herzegovina Constitution, Dec. 14, 1995, pmbl. [Bosn. & Herz.]).

[40] Thus, for example, the constitutions of the three countries that are often said to have similar issues to those of Ethiopia, refer to a singular, undifferentiated people as being citizen sovereigns. The Indian Constitution starts with "We the People of India" ("Constitution of India," 1976, pmbl.). The Nigerian Constitution similarly begins with "We the people of the Federal Republic of Nigeria" ("Constitution of the Federal Republic of Nigeria", 1999, pmbl.). The Swiss

2.2.2 Article 47 and the making of strangers[41]

The regional states constituting the federation are not only organized along ethnic or linguistic lines, but most of them carry the name of the largest ethnic group within the territory of the state. In at least one instance, the ethnic group whose name the state carries is not even a majority in the territory designated as a state. Thus, even though ethnic Hararis are a small minority in the state, the Constitution names the state as the "State of the Harari People."[42]

Who precisely are the nationals of these ethnonations? All Ethiopian residents within the territory of the state? As a matter of logic and sound textual interpretation, it seems that only members of the ethnic group after which the ethnic state is named seem to be the nationals. One cannot, for example, claim that Oromos, Somalis, or Amharas are included in the nation denominated as the "State of the Harari People," for a "nation" is defined in Article 39 of the Federal Constitution as essentially the same as an ethnic group.

The observation about the Harari regional state applies to all the regional states, with the exception of the Southern Nations, Nationalities and Peoples Regional State (SNNPRS) which has itself started to fragment along ethnic or linguistic lines, each seeking to establish its own ethnostate.[43] Ethnic and/or linguistic groups within the SNNPRS will continue to push for their own states. The march is to an imagined purer or authentic ethnic state. But what has also been clear and will continue to be clearer is that splitting a territorial community further down to approximate a purer

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Constitution declares that the federation is made up of the Swiss People and the Cantons" (Bundersverfassung [BV] [Constitution], 1999, art. 1 [Switz.]).

[41] Article 47 divides the country into nine regional states, almost all of which were organized along linguistic or ethnic lines. Pursuant to Article 47(2), which permits any "nation, nationality and people" within those regional states to establish its "own state" if it so desires, two more regional states have been established. So, currently, there are 11 regional states making up the federation.

[42] See Const. of the Regional State of Harari, art. 47. Ethnic Hararis constitute a mere 9% of the State of the Harari People!

[43] This state was self-consciously established to include many southern ethnic/linguistic groups, several of which are now seeking to establish their own states named after their ethnic group. Two have succeeded in that effort, although one of them carries a geographic rather than ethnic-group name.

ethnonational community is like carving a crystal. The size gets smaller, but the same structure will be reproduced at that smaller level. There will be minority nations or peoples within the new structure with their own members. The same issues and questions will emerge with the same degree of intensity, albeit on a smaller scale.[44] The distinguished German social theorist, Jürgen Habermas, is right in his observation that every ethnonationalism "has almost always been accompanied by blood purification rituals, and it has generally exposed new minorities to new waves of repression."[45] We see ample evidence of this in various parts of Ethiopia, and unfortunately as I write this article it seems to occur almost daily.

The current constitutional arrangement seems to envision a qualitatively different relationship between an ethnonational state government and co-ethnics on the one hand, and the government's relationship with members of other ethnic groups who reside within its territory on the other hand. Thus, to the extent that the State of the Harari People is the State of ethnic Hararis, a distinction is implicitly drawn between those who are considered indigenous and those who are not, those who are members of the "nation" and those who are mere residents with only Ethiopian citizenship to show, those who are the primary stakeholders and those who are not. The distinction is not simply linguistic and symbolic—it has had significant material and political consequences.

2.2.3 Constitutions of regional states and the affirmation of difference

A cursory look at the constitutions of some of the ethnonational regional states make this point even more clearly.[46] Take, for example, the Constitution of the

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[44] Of course, there could be perfectly good administrative reasons for a more decentralized form of administration. I do believe Ethiopia will be better served by having more regional states, but it would be folly to think that the way to do it is to cut the ethno-crystal until we approximate a purer form of it. There is no such a thing.

[45] Habermas, *supra* note 21, 142. At another point, Habermas—referring to the drawing of boundaries—makes the point that every boundary (especially any boundary meant to create an ethnonation) will often give rise to new minorities: "The problem does not disappear, except at the price of 'ethnic cleansing'—a price that cannot be politically or morally justified" (219).

[46] Regional States are given the authority under Article 52(2)(b) of the Federal Constitution to "enact and execute the state constitution and other laws."

Oromia Regional State. Its preamble begins "We, the People of the Oromo Nation,"[47] not "we, the people of the Oromia Regional State," which would presumably have included every Ethiopian citizen residing in Oromia, at least symbolically.[48] Recall that the Ethiopian Constitution defines a "nation" as "a group of people who have or share large measure of a common culture," a common language, a common psychological make-up, and a common identity.[49] So, when the Constitution of the Oromia Regional State begins with "We, the People of the Oromo Nation," it is clear who is included in the "we." And to make things even clearer, the Constitution of the Oromia Regional State declares that sovereignty in Oromia "resides in the People of the Oromo Nation."[50] Article 14 of the Constitution further affirms who is entitled to self-determination. It is "the people of the Oromo Nation" who are entitled to "a full measure of self-government." What about those non-Oromo Ethiopian citizens who live (and perhaps have lived for generations) in the State? To what does Ethiopian citizenship entitle them? Do they exercise sovereignty and a full measure of self-government as well? That does not seem to be the case according to the Constitution of the State of Oromia. A nation here, as is the case with any cultural or ethnic idea of a nation, is not based on self-determination but on predetermination.[51]

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[47] "We the People of the Oromo Nation … [c]ognizant of the fact that … the right of peoples to self-determination have [sic] been guaranteed by the Constitution of the Federal Democratic Republic of Ethiopia … [h]ave … proclaimed this Constitution … as an instrument to bind us in a commitment to fulfil [the] objectives [outlined in the preamble]." Const. Regional State of Oromia, pmbl.

[48] *Cf* The Constitution of the Amhara Regional State. Its preamble refers to "We, the Peoples of the Amhara National Regional State" and "we, the peoples, settling in the Amhara National Regional State" as the authors of the Constitution and, hence, as the ultimate sovereign, not "we the Amhara nation" (Const. Regional State of Amhara, pmbl.). This means that every resident in that state is part of "we the people". Indeed, Article 8(1) makes that even clearer: "The supreme power of the national regional state resides in and belongs to the peoples of the Amhara Region."

[49] Eth. Const. art. 39 (5). Interestingly, the same description is given to all three terms: nation, nationality, people. Why three different terms are listed separately when they apparently mean the same thing is rather unclear.

[50] See Const. Regional State of Oromia art. 8 (a).

[51] See F. Meinecke, *Cosmopolitanism and the National State* 205 (1970).

The Constitution of the State of the Harari People explicitly codifies the proposition that sovereignty in the state rests in members of the Harari nation (ethnic Hararis). Article 48 of this Constitution provides that there are two chambers of the State Council (state parliament).[52] Article 49 specifies membership to those chambers; it provides that the upper house is to be composed entirely of ethnic Hararis.[53] This is so, even though ethnic Hararis are only 9% of the regional state's population.[54]

The Oromo and Harari Constitutions are not anomalies. Provisions that similarly entrench ownership and sovereignty among the "indigenous" group exist in other regional states' constitutions as well. All seem to draw their authority from the Federal Constitution, which lodges sovereignty and the full capacity to self-determination (including secession) in the ethnonations rather than "we, the Ethiopian people".

Take another example. The Constitution of the State of Benishangul/Gumuz,[55] while recognizing that members of other ethnic groups reside within the boundaries of the state, declares that ownership of the state rests in only five (presumably "indigenous") "nations and nationalities"— Berta, Gumuz, Shenasha, Mao, and Komo.[56] Ethiopian citizens from other ethnic groups, some

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[52] See Const. Regional State of Harari art. 48.

[53] Article 49 (ለ)(3) of the Amharic version, the only version I have access to, reads thusly (in Amharic): "የሃረሪ ብሔራዊ ጉባኤ…የሚወክሉ 14 የሃረሪ ብሔረሰብ አባላት ይኖሩታል።" (Trans.: The Harari National Council shall have 14 members representing the Harari nationality.) (Const. Regional State of Harari art. 49 [ለ] [3]).

[54] Const. Regional State of Benishangul/Gumuz.

[55] For a more detailed exploration of the Benishangual/Gumuz, see Beza Dessalegn, *Wherein Lies the Equilibrium in Political Empowerment? Regional Autonomy versus Adequate Political Representation in the Benishangul Gumuz Region of Ethiopia*, special edition Acta Humana 31 (2015), AH_2015_S_E_Dessalegn_Beza.pdf (mtak.hu)

[56] Const. Regional State of Benishangul/Gumuz, art. 2. ("Recognizing that there are other peoples that reside within the state, ownership of the state remains in the following nations and nationalities: Berta, Gumuz, Shenasha, Mao and Komo." [my translation]. Here is the Amharic version: "ሌሎች ባለቤት ብሔረሰቦች፦ በክልሉ ውስጥ የሚኖሩ ሌሎች ህዝቦች የሚታዎቁ ቢሆንም የክልሉ ብሔር ብሔረሰቦች በርታ ጉሙዝ ሽናሻ እና ኮሞ ናቸው።")

of whom might have lived in the territory for years or even generations, are not regarded as proper owners of, or sovereign over, the state.

So, the naming of a state after an ethnic or linguistic group is not only exclusionary in textual, symbolic, and conceptual terms, it has practical and substantive effects as well. It has a significant impact on how we understand the nature and scope of Ethiopian citizenship as it applies in the various ethnic states. It seems clear that Ethiopian citizenship is not a sufficient ground for ensuring that members of ethnic groups whose group's name does not grace the name of their state (and are thus not considered part of the "nation") are treated with "equal respect and concern," to use a Dworkinian description.[57]

The political practice for the last 30 or so years has reinforced the grading of Ethiopian citizenship when some are treated as primary stakeholders (owners) and others as "second class citizens" in terms of how social and, at times, even material goods are distributed. Millions of people have been internally displaced, often with the accompanying message that they "didn't belong," regardless of how long they might have lived in that particular state.

What has been taking place in the State of Benishangul/Gumuz and some parts of Oromia is a good example. Ethnic or linguistic affiliation has become a marker of alienage. Even though this was the only place they knew and called home for their entire lives, some citizens were not considered primary stakeholders—indigens. Displacements and murders have occurred and still occur in other parts of the country as well.[58]

Whether or not the constitutional claim of the prior existence of distinct nations is accurate as a historical matter is beside the point, although I must note here that Ethiopia has been more of a nation of hybridity for a much longer period of time

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[57] Ronald Dworkin, *Taking Rights Seriously* (1977).

[58] As a result of the current conflict in the norther part of the country, millions of citizens have been displaced and have been subjected to an even worse fate. Such is the inevitable consequence of organizing a country as a nation of nations where some of those nations view one another as existential threats rather than as subcommunities engaged in a common project.

than the drafters and sponsors of the current Federal Constitution were willing to acknowledge. I will leave that issue to historians.[59] But what I think to be obvious is this: regardless of the historical accuracy of the preexistence of distinct nations, the preamble, Article 8, Article 39, and Article 47 of the Federal Constitution have constituted the several nations by the very fact of asserting their existence. That is what narratives do. They constitute the very things they claim to be merely describing. The assertion of the existence of different nations, nationalities, and peoples are perhaps normative claims disguised as descriptions of historical facts. But a 30-year narrative of preexisting nations (and an intense practice of the politics of difference over those years) has in fact been able to transform, at least partially, *the historical into the primordial, and the normative into the factual.*[60]

2.3. The confederal dimension of Ethiopian citizenship

I noted earlier that for some people (and I include myself in this group) the federal constitutional arrangement resembles a confederation more than it does a federation. That observation applies to the nature of Ethiopian citizenship as well.

The secondary and derivative nature of Ethiopian citizenship seems to resemble that of the citizenship of the European Union (EU) introduced at Maastricht.[61] EU citizenship is a derivative status in that one becomes a European citizen because one is a citizen of a country that is a member of the European Union. One needs

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[59] Professor Bahru Zewde has recently penned an essay on the role of the Student Movement in the nationality question. See ባህሩ ዘውዴ፣ የኢትዮጵያ ተማሪዎች ንቅናቄ አሻራ በብሄረሰብ ጥያቄ ላይ (Trans.: Bahru Zewde, Impact of the Ethiopian Student Movement on the Nationality Question), (unpublished, manuscript with author).

[60] One only need read the preambles of the various constitutions of the regional states to see the degree to which the ethnic group whose name the state carries goes to establish the historical nature of its nationhood. Those preambles are attempts at constructing a politically serviceable history.

[61] The Treaty on European Union (informally known as the Maastricht Treaty), Feb. 7, 1992. See also Joseph Carens, *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness* 165 (2000).

to be, for example, a German citizen, before one can make a claim on European citizenship.

In the same way that all sovereign power in the EU rests in the various member states and not in an undifferentiated European people[62] EU citizenship is dependent on the existence of a citizenship to one of the member states.

Similarly, since all sovereign power in Ethiopia rests in the various "nations" rather than "we, the Ethiopian people," Ethiopian citizenship is dependent on and derivative of the citizenships to those sovereign "nations." Ethiopian citizenship is mediated through the citizenships to the several ethnonations. One becomes an Ethiopian citizen by virtue of membership to one of the ethnonations or peoples that make up the federation. The Constitution does not imagine an undifferentiated Ethiopian people. It is the codification of difference. *Sorting* people is the business of the current constitutional order.

European citizenship is not only derivative but, as a matter of political identity, it is secondary and thin as well. One is German, French, or Spanish before one is a European citizen. It might not be accidental that the preamble to the Ethiopian Constitution claims that what convinced the various "nations and peoples" to come together to reconstitute Ethiopia (I suppose rather than fragmenting it into independent countries) was the necessity to be one "economic community"[63] to promote their interests. That was precisely the announced official reason for the establishment of the European Economic Community which morphed into the European Union. Ethiopian citizenship's resemblance to EU citizenship suggests that the dual sovereignty that the Ethiopian constitutional arrangement recognizes is, as I noted earlier, closer to a confederation than it is to a federation.

In sum, if one were to read the preamble, Article 8, Article 39(5), and Article 47 of the Federal Constitution together (and takes them seriously), one would conclude

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[62] See Karl-Heinz Ladeur, *'We, the European People . . .' Relâche?*, 14 European Law Journal 147 (2008).
[63] Eth. Const., pmbl.

that Ethiopian citizenship is contingent on, or assumes the prior existence of, an identity that links an individual to a particular ethnonation or people. A qualitatively different jurisdictional relationship is then imagined between the ethnic state and co-ethnics on the one hand and its relationship with other Ethiopians. As I tried to indicate earlier, the constitutions of the several regional states affirm this jurisdictional and political distinction.

Not only is Ethiopian citizenship secondary, but it is *thin* as well. A citizenship that can be discarded at any moment for any reason, as Article 39 provides, cannot be said to have depth. Constitutionalizing secession has a serious corrosive effect on the national body politic. The likelihood that the right to exit will be deployed by strident ethnonationalists in a never-ending strategic use of blackmail—to extort power or resources—is very high.[64] A fully ethnicised federal structure overlaid with the right to secession at any time for any reason will be a disincentive to collective life and an integrative process. The process of open and sincere deliberation about fair terms of cooperation, essential for collective life, will be a casualty of a constitutionalized right to secession and the process of strategic use in which that right will be deployed. Politics then degenerates into a struggle for domination.

2.4. Specific articles on citizenship in the federal Constitution: Do they make any difference?

To be sure, the Constitution specifically refers to Ethiopian citizenship in a couple of articles. Article 6(1) announces that an individual "shall be an Ethiopian national where both or either parent is Ethiopian." Although it is not clear from the text, it would be reasonable to assume that the principle applies to children born outside the country as well, provided that one parent is an Ethiopian. The principle adopted here is referred to as *jus sanguinis*, "the law of the blood"—the

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[64] Sunstein argues that constitutionalizing secession increases "the risks of ethnic and factional struggle; reduce the prospect of compromise … create dangers of blackmail, strategic behavior, and … most generally, endanger the prospects for long-term self-governance" Cass Sunstein, *Constitutionalism and secession*, 58 U. Chi. L. Rev, 633, 634 (1991).

idea is that a child becomes a citizen by virtue of descent. This is contrasted with another theory of citizenship, *jus soli* (law of the soil)*,* which grants citizenship to a child born in the territory of the relevant country regardless of the status of the parents. Under *jus soli,* the place of birth rather than descent is the source of citizenship.[65] Much of the world follows the *jus sanguinis* principle.

As to the acquisition of citizenship by foreigners, Article 6(2) of the Constitution simply notes that "[f]oreign nationals may acquire Ethiopian nationality." It leaves the particular process by which such citizenship is acquired or conferred to ordinary legislation.[66]

While Article 6 is about acquiring Ethiopian nationality, Article 33 speaks to the question of when and how Ethiopian citizenship could be lost.[67] These two articles tell us about the process through which Ethiopian citizenship is gained or lost, but they do not tell us about its content and its relationship to the ethnonational citizenships that link individuals to the various ethnonations. I do not believe that the existence of these two articles undermines the argument that I made earlier that Ethiopian citizenship under the Federal Constitution is derivative and thin, at least for domestic purposes.

Let us take Article 6 first. Here, the Constitution simply tells us that there is such a thing as Ethiopian citizenship and it is another layer upon the citizenships to the

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[65] The United States Constitution has codified the *jus soli* principle. U.S. Const. amend. XIV sec.1: "All persons born … in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." The United States, however, applies the *jus sanguinis* principle to children born of American citizens outside the country.

[66] Ethiopian Const. art. 6(3). See also art. 33(4): "Ethiopian nationality may be conferred upon foreigners in accordance with law enacted and procedures established consistent with international agreements ratified by Ethiopia." Also, pursuant to Article 51(17), the Federal Government is given the power to "determine[] matters relating to nationality."

[67] Article 33(1) prohibits the deprivation of Ethiopian nationality against the will of the citizen. The same section prohibits the deprivation of the nationality of a citizen merely by virtue of the person marrying a foreigner. And according to Article 33(3), a citizen could renounce her citizenship if she so desired.

various nations making up the federation.[68] When Article 6 announces that a child "shall be an Ethiopian national where both or either parent is Ethiopian," does that mean that one becomes an Ethiopian citizen without first becoming a member of one of the nations or nationalities? Perhaps that is the case if a child is born of foreign naturalized parents. This is, of course, likely to be a rare event in a country such as Ethiopia, with little immigration. But as a general matter, Ethiopian citizenship is dependent on the assumption that one is affiliated to one of the nations, nationalities, or peoples, for there is no sovereign space capable of giving rise to Ethiopian citizenship outside those "nations, nationalities and peoples" where "[a]ll sovereign power resides."[69]

So, when Article 6 provides that if you are a child of an Ethiopian or Ethiopians, then you are an Ethiopian citizen, it assumes that the relevant Ethiopian parents had become Ethiopian citizens by virtue of their membership to one of the several nations (or is it peoples?). This means that ethnonational citizenship has primacy as a matter of domestic political identity. We are then back to the issue of what Ethiopian citizenship entitles one to when one moves into a state that is named after a different ethnic group. The existence of Article 6 does not alter the fact that Ethiopian citizenship does not entitle a person to full and equal membership if that person is deemed not to be part of the relevant nation or people. Perhaps premised on the proposition that the self-determination guaranteed to every nation by the Federal Constitution (and the right given to every State "to enact and execute the state Constitution"[70]) allows it, constitutions of the several

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[68] Will Kymlicka refers to this second-level citizenship as "post-national citizenship" (Will Kymlica, *Multicultural Citizenship within Multinational States*, 11 Ethnicities 281, 290 [2011]). Kymlicka defined post-national citizenship in a multinational state such as Canada, Belgium, and the U.K. as one where immigrants are socialized not to the existing nations, but to the multinational state itself. In the case of the U.K., for example, rather than socialized as Scots, Welsh, English, or Irish, immigrants would be treated and socialized as UK citizens. Immigrants "would be encouraged … to identify" with and manifest the national identity (as British) without any expectation or encouragement that they identify "with any of the constituent 'home nations'" of the relevant country. (*Ibid.*) Opposed to that is the multinational approach to citizenship where immigrants would have to affiliate themselves to one of the existing constituent nations in order to see themselves as citizens of the country.

[69] Eth. Const., art. 8.

[70] See art. 52(b).

regional states make explicit distinction among Ethiopian citizens between primary stakeholders and the rest.

Let us now look at Article 33, which provides that every "Ethiopian national has the right to the enjoyment of all rights, protection, and benefits derived from Ethiopian nationality as prescribed by law."[71] This provision seems rather tautological. Ethiopian citizens are entitled to all the rights to which Ethiopian citizenship entitles them. But the question is: What are the contents of Ethiopian citizenship as a constitutional matter? That is, what sorts of rights are constitutionally required or even permissible on the account that one is an Ethiopian citizen in a country which is made up of nations (with their own nationals) with considerable sovereign authority?[72] In such circumstances, are Ethiopian citizens one another's equal in their relationship with the relevant state government regardless of their linguistic or ethnic origin or affiliation? The constitutional text and political practice seem to suggest that the answer to that question is "no." The whole purpose of an ethnonational federalism is to sort people between natives and non-natives, and between indigenes and settlers.

To be sure, Article 38 of the Constitution, mirroring Article 25 of the International Covenant on Civil and Political Rights (ICCPR), provides that every Ethiopian has the right "to take part in the conduct of public affairs, directly, and through freely chosen representatives" and to "vote and [be] elected … to any office." This article does not tell us where and under what conditions that participation takes place, especially at the regional state level. It does not speak to the permissible requirements that the legislative or administrative bodies of the ethnic states could impose as a condition of such participation. While, apparently, exercising their full sovereignty, some of the regional states have imposed conditions which are exclusionary of those who are not considered as a part of the nation. One assumes that the incorporation of Article 25 of the ICCPR was not meant to affect the

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[71] Eth. Const., art. 33(2).
[72] Eth. Const., art. 8(2).

constitutional structure that deemed ethnic identity the primary organizing principle of political practice and a source of sovereign authority.

2.5. The relationship between human rights and citizenship in the constitutional scheme: An uneasy coexistence

As I indicated in the last paragraph of the immediately preceding section, it is true that the Federal Constitution enshrines political and civil rights in its Chapter Three. The Chapter lists a catalogue of rights taken from international human rights documents to which the country is signatory (e.g., the International Covenant on Civil and Political Rights) or which the country apparently believes have become customary international law (e.g., the Universal Declaration of Human Rights). However, how these rights cohere with the political structure that the rest of the Constitution entrenches is never clear. Do these human rights vindicate the primacy of Ethiopian citizenship over the citizenships to the ethnonations?[73]

As I mentioned earlier, the right to citizenship or nationality is the gateway to all other rights. In a country which is organized as a nation of nations, the right to have rights at the state level (ethnonational citizenship) is precisely the right one needs in order to access all human rights listed in Chapter Three of the Constitution. To paraphrase Rainer Bubök,[74] in a political arrangement where some Ethiopian citizens are viewed as *primary stakeholders* and others not, Ethiopian citizenship cannot be said to be the right that gives access to the fullest menu of rights listed in Chapter Three of the Constitution.

The dynamics of politics in an ethnically-organized state is to give institutional expression to and firm up (make more salient) the primacy of ethnonational

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[73] Perhaps, as a recent article shows, many countries adopt international human rights wholesale not so much to enforce the contents of those agreements but to increase their "international credibility" (Kim L. Cope, Pierre-Hugues Verdier, & Mila Versteeg, *The Global Evolution of Foreign Relations Law*, 116 Am. J. Int'l L. 1, 9 [2022]).

[74] Rainer Bauböck, *supra* note 13.

citizenship. That is the whole point. To sustain ethnonationalism, political actors will continue to practice the *politics of difference*. The consequence will continue to be that Ethiopian citizenship will fall far short of performing the important functions that nationality or citizenship is meant to perform: equal and full membership across the land and an integrative function capable of sustaining a national political community over a long period of time.

3. Internal Displacement[75] as a Form of Statelessness: Further Reflection

Many Ethiopians have been displaced internally for the last several years. Indeed, at one point, in the last couple of years or so, the country was said to have the highest number of internally displaced persons in the world.[76] Internal displacement continues unabated. To be displaced is to be uprooted forcibly or coercively from the place one has called home, sometimes for generations, because

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[75] By "internal displacement" I mean to refer to the phenomenon of the forcible displacement of some citizens of a country from one or another part of the country. Unlike the case of refugees, the displacement here is within the state and not across international boundaries. The causes of displacement are many, but in the context of this article the relevant causes are conflicts, generalized violence, or, as is often the case, violence targeting a particular ethnic, linguistic, or religious group on the account that members of that group are thought to not belong there. Internal displacement, unlike refugee status, has not been a focus of the international community. The only international document that speaks to the problem is a soft law of guidelines rather than the hard law of treaties. See Guiding Principles on Internal Displacement, Internal-Displacement.org, (July 22, 1998), 199808-training-OCHA-guiding-principles-Eng2.pdf The African Union has adopted a convention for the protection of displaced persons. See Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), Internal-Displacement.org, (October 23, 2009), https://www.internal-displacement.org/sites/default/files/publications/documents/200910-training-KC-AU-Convention-on-IDPs-Eng.pdf

[76] Ethiopia was said to have the highest number of internally displaced persons in the world in the first half of 2018. See "IDMC Mid-Year Figures: Internal Displacement in 2018," ReliefWeb, (Sept. 12, 2018), https://reliefweb.int/report/world/idmc-mid-year-figures-internal-displacement-2018. Given the size of the displaced population in the northern part of the country, the number of displaced persons will probably still put Ethiopia high on the list of countries with internally displaced populations.

those displaced are deemed to not properly belong to that part of the country. They are not part of the relevant nation.

The phenomenon of internal displacement can be analogized to statelessness. While statelessness signals that no country claims the particular person as a member of its national political community, internal displacement signifies that the displaced is not considered as a full member of the subnational unit (the "nation," in the confusing language of the Ethiopian Constitution). In each case, the person loses the important *right to have rights* and the *idea of home*. In the case of statelessness, the existence of international human rights is of no consequence since those human rights will need to be enforced by a political community, the very entity to which a stateless person has no right or opportunity to belong. Similarly, in an ethnically-organized country such as Ethiopia, national citizenship doesn't seem to provide the same level of access to the effective application of rights that ethnonational citizenship does, at least in some parts of the country. The quality of one's citizenship is a function of the strength and quality of one's ability to participate in the relevant political community. In Ethiopia today, national citizenship does not seem to be capable of performing that function.

Just as the phenomenon of statelessness can be considered a "pathogen … that illuminated the anatomy of the [nation-]state"[77]—the sovereign ability to decide who shall be a member and who shall not—internal displacement is a "pathogen" that illuminates the nature of ethnic federalism, whose basic requirement is that one be a member of the relevant "nation" if one is to be regarded as a full-fledged member of the community.

Displacement is, of course, a great tragedy for those who have been uprooted simply because they thought they could live in any part of their country, but it is also an ominous sign that a political community in which this occurs with some degree of regularity is in grave danger of unravelling. When Ethiopian citizenship

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[77] Mira L. Siegelberg, *Statelessness: A History* 158 (2020).

is too thin to guarantee the rights of residence and full participation, the long-term survival of the country is in serious doubt.

4. Ethnic Federalism and the Challenge of Building a Democratic Culture

One of the challenges that a "nation of nations," rather than a nation of citizens, will face is that even if it were to survive as a political community, it will have difficulty building a democratic culture. There are several reasons for thinking that ethnic federalism will make the adoption and entrenchment of a democratic culture rather difficult.

First, in an ethnically-organized federal system where there is not equal membership for citizens across the land, the possibility of people viewing themselves as engaged in a common project increasingly fades. What makes a democratic culture is a circumstance where citizens see themselves as equal participants, both as the originators and addressees of the law. An examination of the constitutions of the various regional states shows that not to be the case.

Second, ethnic federalism will increasingly rigidify ethnic identity as the central organizing principle not just in political life but in all dimensions of life. Most issues or disputes will increasingly be viewed as disputes about identity, about the worth of the group itself. Identities, not interests, become the arbiters of disputes. Under those circumstances, the possibility of compromise (essential for a democratic culture) becomes harder. Who would compromise on the very worth of one's group and the very essence of one's identity? The fundamentalization of ethnic identity will be accompanied by the thinning of common national identity, contributing to the difficulty of making necessary compromises and making

sacrifices in the name of a shared project.[78] The discourse of citizenship confined to one central and narrow notion of ethnocitizenship has failed Ethiopia.

Third, one of the tragic consequences of ethnic federalism in its Ethiopian version has been that it has seriously diminished the possibilities or odds of the emergence of civic associations across ethnic lines as a check on governments at all levels. The primacy of ethnic identity has shaped civic, not just political, organizations. The highly ethnically segmented private media is a good example. Some of the media view their role as boosting the interest of the nation or ethnic group to which they view themselves as belonging rather than disseminating accurate information and checking administrations at all levels of government. Ethnicity's status as the primary organizing principle of political and social life has seriously diminished (some might say closed off) the possibility of the private sphere influencing the course of public affairs in a positive manner.

Fourth and perhaps most importantly, since the current constitutional arrangement (organized along ethnic lines) is tilted toward dissociation, it will continue to lead to conflicts and instability.[79] A recent study shows that, although there are many factors that predict civil wars and instability, only two factors prove again and again to be highly predictive. Barbara Walter, in her recent book *How Civil Wars Start and How to Stop Them*, notes that one of those two factors is whether a society has started to organize itself primarily or exclusively around identity, whether those identities are ethnic, religious, or racial.[80] In a *Washington*

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[78] Some think that the current constitutional system, if allowed to proceed for a few more years, will necessarily lead Ethiopia to the position that Switzerland finds itself now—a nation with strong national identity. The evidence from the last three or so decades suggests exactly the opposite. At any rate, any level of familiarity with Swiss history will show that the country developed its Swiss identity not passively but after a deliberate and sustained campaign to foster national identity, especially in the 19th century. Myths of origin and the resurrection of heroes like William Tell were what led to the current strong Swiss common national identity that supersedes linguistic, religious, and cantonal identities. For an account of the building of Swiss national identity, see H. Kohn, *Nationalism and Liberty: The Swiss Example* (1956). Also, let us remember that Cantons were not organized along linguistic lines, nor was there any intention to so organize them. The number of Cantons (26) far exceeds the number of linguistic groups (four) that inhabit the land.

[79] Conflicts about borders, about the treatment of one's kin in another state, etc.

[80] Barbara Walter, *How Civil Wars Start and How to Stop Them* (2022).

Post interview, Walter observes that "every year those two factors continue, the risk increases."[81] Indeed, she compares it to smoking. In the same way that the risk of serious health issues increase every year that a person continues to smoke, the risk of serious conflict (civil war) will increase every year that a country continues with identity politics.

Such circumstance will give a reason (an excuse?) for national leaders to assume more (and less accountable) power in the name of maintaining the stability and integrity of the country. The presence of a strong (and perhaps unaccountable) federal government (executive) will be required to keep the lid on constitutionally-induced conflicts. At least, that is likely to be the perception of national leaders. The hope for democratic governance will continue to be one of the casualties of the current constitutional order. It is the height of irony that a constitutional order that was said to have been adopted to decentralize and pluralize power may perversely (if logically) lead to the emergence of centralized power and even autocracy!

5. The Dignity of Citizenship: Unity in Diversity

A constitution is an expression of a political community's desire to establish a mode of politics for collective life. That is, a well-designed and well-structured constitutional order has an integrative function. National citizenship is one vital integrative mechanism, for it signals that members of the political community are one another's equals and are engaged in a common project. As Habermas put it, "the *moral promise* of equal respect for everybody" that the notion of human

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[81] K. K. Ottesen, "*They are Preparing for War": An Expert in Civil War Discusses Where Political Extremists are Taking This Country*, Wash. Post, March 8, 2022. The second factor that the author thinks is highly predictive is what she refers to as "anocracy," the middle zone between democracy and autocracy: "[F]ull democracies almost never have civil wars. Full autocracies rarely have civil wars. All of the instability and violence is happening in the middle zone." For another view of the danger of ethnic politics see Lars-Erik Cederman, *Blood for Soil: The Fatal Temptation of Ethnic Politics*, 98 Foreign Affairs 61 (2019): "Should ethnic nationalism continue its march, it risks fueling destabilizing civil unrest in multiethnic states around the world — and even violent border disputes that could reverse the long decline of interstate war…. Those who toy with ethnic nationalism are playing with fire."

dignity signals "is supposed to be cashed out"[82] in the social and legal currency of equal citizenship. At another point, Habermas makes this case even more directly when he observes that "the concept of human dignity transfers the content of a morality of equal respect for everyone to the status order of citizens who derive their self-respect from the fact that they are recognized by all other citizens as *subjects of equal actionable rights.*"[83]

Under the current constitutional arrangement, Ethiopian national citizenship does not seem to be capable of performing that function. Shaping the Constitution to strengthen integrative institutions while also accommodating the rich diversity of the country is the task ahead.

I intend to argue in subsequent essays that integration and accommodation are not opposed to normative or policy commitments. Rather, the two assume one another. There cannot be proper accommodation in an environment that is defined by constant identity-based conflicts where each nation sees other nations as existential threats. Accommodating difference is not only normatively desirable but, in a diverse country such as Ethiopia, it is also necessary for building a durable national political community. Federalism is often taken as the arrangement that stands the best chance to provide the conditions for a more successful integrative and accommodative process, and I have argued in several earlier articles to that effect.[84] A great deal can be said for the potentials of federalism, but unless one is willfully blind, it is clear that the current "federal" structure has proven utterly incapable of ensuring either integration or accommodation. A fully ethnicized

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[82] See Jürgen Habermas, *Human Dignity and the Realistic Utopia of Human Rights*, 41 Metaphilosophy 470 (2010).

[83] Habermas, *ibid.*, 472 (emphasis in original).

[84] In several earlier works, I have attempted to sketch the manner in which both integration and accommodation could be institutionally entrenched: in relation to ethnic minorities (see *Individualism, Communitarianism, and the Rights of Ethnic Minorites*, 67 Notre Dame Law Review 615 [1992]); in relation to the deliberative process (*Deliberative Democracy in Severely Fractured Societies*, 16 Indiana Journal of Global Legal Studies 59 [2009]); in relation to the language issue (*Cultural Integrity and Political Unity: The Politics of Language in Multilingual States*, 33 Arizona State Law Journal 719 [2001]). I have variously referred to the principle that allows us to manifest both integration and accommodation in my earlier works as "pluralistic solidarity" or "critical pluralism."

federal structure overlaid with the right of secession at any time for any purpose [85] will continue to be a disincentive to collective life and the integrative process.[86] Furthermore, a constantly destabilized national life will be far from conducive to accommodating diversity, as we have seen in the last several years. Ethnic minorities within the various ethnonations have become the victims of the current ethnicized political and constitutional order. By dividing the country into ethnic states (where the only means of sorting among the many variables is "descent"), the Constitution is purported to have liberated nations from the yoke of a unitary state, but alas many of the ethnic states have become as profoundly unitary as the central state from which they were "liberated." The fate and conditions of many minorities in the ethnostates is a testament to that irony. A legal order and a structure of governance are legitimate only to the extent that they "safeguard the autonomy of *all citizens* to an equal degree."[87] The moral promise of equal respect for everyone is meant to be cashed out in the legal and social currency of equal citizenship.[88] The Federal Constitution and the constitutions of some of the regional states appear to provide no such safeguard.

DISCUSSIONS

Dr. Shimelis Mulugeta - Discussant

The paper is a sober and damning critique of the Ethiopian Constitution as it relates to citizenship. It also provides a very rich definition of citizenship. Even if

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[85] Rare in world constitutionalism.

[86] And interestingly the right of secession is considered such an essential part of the constitutional identity of the nation that it has been made rather difficult to amend (see Article 105). It is close to what constitutional scholars refer to as "eternity clauses," those frequently unamendable provisions of constitutions that mirror the deepest historical roots of a constitution-making process. This is no different.

[87] Habermas, *supra* note 21, 215.

[88] See Habermas, *supra* note 82, 469. In this article Habermas makes the argument that the dignitary rights that are meant to accompany the notion of citizenship are important if members of the political community "are to be able to *respect* one another as members of a voluntary association of free and equal persons" (470, emphasis in original).

the focus of the paper is on citizenship under the Ethiopian Constitution, it also discusses some broader issues, for instance how citizenship facilitates and, probably, is a necessary precondition for dignity. It also considers how the Constitution is alienating the citizen and even erasing them from the political public discourse. In my own paper, I discussed the issue of Ethiopian modernization and the mass importation of Western ideas and ideals, and showed how that has brought about an identity crisis and led to self-alienation of Ethiopians. So, I found your paper complementing my thoughts in a very concrete way. Professor Adeno's paper concludes that Ethiopian citizenship is derivative and thin and that "Ethiopian national citizenship does not meet either the normative demand, which is full membership and equal standing, or the functional role", i.e., the integrative role it is meant to play; so, it fails in both of these tests.

Although the issue of citizenship or the lack thereof in the Ethiopian Constitution has been the subject of scholarly debate, it has mainly been doctrinal. Professor Adeno's paper is starkly different in that, not only does it speak to the issue of citizenship from a political-legal perspective, it also addresses the constitutive effects of a constitution, which is very important. For example, the paper addresses how the law can constitute particular narratives that in turn have the potential to change reality on the ground, and how the law makes who we are. It also addresses how, in the case of our own constitution, politics, or as you put it, "the politics of difference" is conducted, and how identities, not interests, become the arbiters of disputes owing to the fact that the Constitution grants thin citizenship.

I have a few questions for you. The first question relates to the redeemability of the Ethiopian Constitution. For instance, in the context of the U.S. Constitution, there is what is called "the original sin" of slavery. However, due to the aspirational aspects of the U.S. Constitution, such as liberty, equality, etc., the U.S. Constitution has redeemed itself of its original sin by expanding the moral circles in which it applies. My question is: do you see how something potentially similar could happen to the Ethiopian Constitution? To be more specific, is there any way to get full citizenship within the current constitutional arrangement? I ask this

question because there is a strong belief, especially within the legal community, that the Constitution is quite generous when it comes to human rights provisions, and that the kinds of problems that are raised in your paper could be addressed through these provisions. So, do you see hope within the present Constitution?

The second question is a request to flesh out a point implicitly made in the paper. You state: "The Constitution does not imagine an undifferentiated Ethiopian people. It is the codification of difference. Sorting people is the business of the current constitutional order." So, what do you think is the status of people with mixed ethnic identities or those who wish not to identify themselves with any ethnic group, either by choice, due to their mixed ethnic heritage, or for any other reasons?

Reply by Professor Adeno Addis to remarks made by the Discussant

In response to the first question by Dr. Shimelis, yes, the Constitution could come into its own and redeem itself. But as long as we have the ill-conceived, ill-defined, and ill-thought-out concept of nations as a central organizing element of the document or structure, it is going to be very difficult to move forward. As long as ethnic identity remains a hard parameter through which all issues and concerns are viewed and analyzed, distrusts and conflicts will remain common features of political and social life. And injustices that are not easily seen or recognized through the ethnicity prism will remain unattended to. In relation to my concern that the current arrangement is likely to encourage conflicts, let me give an example. A border adjustment between regional or provincial administrative units that might have been seen as innocuous and uncontroversial becomes highly contentious when that adjustment is made in the context of a country organized as a nation of nations where those nations have an unconditional right to secede from the union. The regional states are not mere administrative units but nations entitled to political divorce under Article 39 of the Constitution. The idea of "nations" is becoming a hard parameter and the nations themselves are becoming increasingly stronger, resembling mini-countries. This worrying development will continue to foster the politics of difference and domination (nations attempting

to dominate other nations) rather than the condition where citizens see themselves as engaged in a common project.

The second question is about the fact that the Ethiopian Constitution does not refer to the undifferentiated "we, the Ethiopian people". What is amazing is that in this regard the Ethiopian Constitution stands alone among national constitutions currently in force. While the Ethiopian Constitution refers to "nations, nationalities and peoples," almost all other constitutions refer to the undifferentiated "we, the people" [singular] in their preambles. What the Ethiopian approach of differentiated peoples (nations, nationalities and peoples) does is force or incline citizens to think of themselves primarily as members of this or that ethnic group (this or that nation) in the way they present themselves, they view one another, and perceive and approach issues. This politics of difference will increasingly make ethnic identities hard parameters, turning the contingent into the primordial and the normative into the factual. This is no way to forge a stable national political community or a community of citizens

Now the question about federalism. In a very diverse country such as Ethiopia, federalism is in my view the best way of structuring governance. But the current arrangement is closer to a confederation than it is to a federation. It will continue to lead to conflicts and instability. What we need is a federalism that views integration and accommodation as two sides of the same coin rather than as opposed institutional commitments. That is what I hope to show in the paper I am working on.

Dr. Adem Kassie Abebe

One of the key issues in need of addressing is the fundamentalism the designers of the Constitution implemented when formulating self-determination, as they essentially wanted to bring it to its logical conclusion. It can be said that one of the features of fundamentalism is its purity and singularity. Therefore, the drafters, in order to recognize ethnic identities like Amhara, Oromo, or Somali, had to deny the existence of an Ethiopian people at that particular time, even though theoretically, normatively, and practically, it was possible to recognize both

identities: people of Ethiopia and people of particular region; they both could have co-existed. Through closer observation we can see this fundamentalism, and that is a feature not just only of the politics apparent in the making of the current constitution, but also of the politics of our political class since political pluralism emerged in the 1940s. We have this tendency to look at things from a single perspective and try to push it to its logical conclusion when, in reality, there are diversities not just across identities or linguistic groups but perhaps, just as strongly, within each of the groups. At the time this Constitution was being configured, it was not just being constituted; it had to define who the people were. Every constitution before crediting sovereignty to a people must define it. So, we have a constitution that claims to be defined by the people but, in reality, it defines who the people are.

Dr. Yonatan Fessha

Professor Adeno, in your paper you address the concept of a differentiated political citizenship, the fact that people, both in law and in practice, are treated differently based on their ethnic identity; that, I think, is about political citizenship. But you also try to make a link with legal citizenship. I think that is somewhat problematic, in the sense that these two concepts are different. Yes, the fact that we have a differentiated political citizenship might undermine legal citizenship; however, it does not, in my opinion, affect the basis upon which a person becomes legally a citizen. In your paper you ask the question: "Does that mean that one becomes an Ethiopian citizen without first becoming a member of one of the nations or nationalities?" So, you are asking whether being a member of a nation or being a member of one of the ethnic groups is the basis for the apparent legal citizenship. I thought the answer to be a definite "no". But you seem to assert the opposite. For me, legal citizenship as it is now is not affected by the political citizenship observed in the country that emanates from the Constitution we have. I would appreciate it if you could elaborate on this point.

Dr. Getachew Assefa

My own paper is about disputing whether the national question upon which the constitutional framework is designed was a correct diagnosis of the problem of Ethiopian society, and so I want to take issue with that. But what troubles me is that those who want to champion the rights of ethnolinguistic communities want these issues to be at the center of constitutional discourse and institutional design in the country. Therefore, how can we accommodate these interests? If we had the time and opportunity to revise the Constitution, how can the right balance be struck? Maybe a solution could be inferred by considering Marxist-Leninist definitions for nations, nationalities, and peoples. Would using the term nationalities rather than nations solve the problem if we stick to the definition the Marxists suggested?

Dr. Semir Yusuf

We have talked about the defects of the current ethnic federalism, the fact that it has not lived up to citizenship's aspirations, individual rights, etc., for decades. It is time to move on in the sense of asking the more fundamental question of how to reconcile contending visions. This requires moving on from debating federalism—whether federalism is good or bad, or whether the current regions should be redrawn—and consider other alternative institutional mechanisms to accommodate divergent perspectives in our country. This is where we should talk about the possibilities, the deficiencies, the advantages, and disadvantages of systems like consociationalism, centripetalism, liberal consociationalism, corporatist consociationalism, feasible ways of combining centripetalism with consociationalism, etc. These are the kinds of debates ethnically divided societies around the world are now having and trying to implement in their respective countries. We have to take stock of all experiences and consider the extent to which they could be applicable in our case.

So, we should note two things here. First, we have to move a bit beyond debating federalism and try to explore other ways of accommodating ethnonationalist and nationalist demands in this country. This requires us to consider other alternative

forms of accommodation, including federalism and federal units, but more so going into the question of electoral systems, government types (presidential or parliamentary system), proportional representation, and majoritarian systems. These are the kind of systems divided societies adopt to accommodate divergent views. Second, at the heart of this debate is the question of reconciling contentious nationalist mobilizations.

Dr. Abadir M. Ibrahim

I want to add to the points made by Semir. One of the things that we wanted to focus on in this conference is the kind of solutions that can be imagined. The problems of the system, at least a good part of them, have been identified and discussed in the literature. We have talked and published about them for three decades. What is lacking is literature on the potential solutions. So, as potential solutions, or to put some things on the radar, let me add to Semir's list: redrawing borders, the secession issue, whether democracy is structurally possible at all, transitional justice, and political party structures and systems.

Prof. Adeno Addis

Regarding Dr. Adem's observation, I understand it to mean that the peoples and nations that are said to have come together to adopt the Constitution are in fact themselves creatures of the Constitution. I agree. That is the argument that I make in the paper. The Constitution (more precisely, the drafters of the Constitution) determined who counts as a nation and who the relevant nations are who were entitled to ordain and adopt the Constitution. Some scholars argue that in constitutional designs the people and the constitution they adopt are co-constitutive. That is, the people define the scope of the document as the document also defines or constitutes who those people are. In the Ethiopian case, nations, nationalities and peoples are constructs of the document itself. The constitutional assertion of their existence is the primary means through which they were given life. One of the interesting things about "nations, nationalities and peoples" is that those three terms are described in exactly the same way in the Constitution. Why

one would choose to appropriate three different terms that apparently mean the same thing is not clear.

In regards to Dr. Yonatan's question, the distinction between political and legal citizenship seems to me not as sharply defined as he suggests. After all, the paper shows how the states relying on the power of sovereignty that the Federal Constitution grants them have imposed distinctions and restriction both in their constitutions and in their ordinary laws. Is the Harari Constitution's restriction of membership to the upper body of its parliament not a denial of equal membership of Ethiopian citizens? Distinction among Ethiopian citizens, between indigens and others, exist in other states' constitutions. At any rate, often the right question is not who is a citizen as a formal legal matter (de jure), but what makes a citizen and as a factual matter whether those rights and privileges that define citizenship are or can be factually provided. Citizenship is how nationhood is experienced practically.

To address Dr. Getachew's question of how to strike the proper balance between honoring the country's rich linguistic diversity and ensuring a stable and durable national community, yes, we can think of various spheres of deliberation in fractured societies. My past work has attempted to show the possibility of deliberative democracy in fractured societies. I am a big supporter of linguistic groups retaining, cultivating, and enriching their languages. Language is not just a medium of communication, but an important cultural software as well. It gives access to one's history and it is the means through which one gives significance to important cultural rituals. But the way that Ethiopia has organized itself as a constitutional matter is not the only way that one could ensure that linguistic minorities are given the right and resources to cultivate and enrich their languages. Indeed, the current arrangement does not even fully ensure the rights of minorities within the various regional states. The irony is that the nations that were said to have been liberated from a unitary state are themselves unitary, non-accommodating or even hostile to the rights of minorities amidst them. We will have to imagine other ways of accommodating diversity, for the current dissociation constitutional model will, in the long term, guarantee neither the

rights of linguistic minorities nor even the very survival of the country as a viable political unit.

Let me respond briefly here to the worries that Dr. Semir and Dr. Abadir have expressed that we are not engaged enough in suggesting alternative arrangements or, in Dr. Abadir's words, "potential solutions." That is a fair point and a reasonable worry. I think many people, including myself as I noted in the last paragraph, are working on alternative arrangements. Some alternatives are already out there, although we may not like those solutions, or we may not think that they have a good chance of success. But I think it would be a mistake to think that there are infinite number of alternatives (imagined or otherwise) that we have not explored. The fact is that the solutions are few and well-known. The problem is finding the political and societal will to adopt a process to get us there. But there is one alternative Dr. Semir included in his list of possible alternative solutions that I am highly skeptical of and hope we will not embrace as a solution. I am referring to consociation. I have argued in several articles that consociation will continue to fundamentalize rather than heal fractures. It will put our current ethnic fracture on steroids. Wherever it has been tried, consociation has not worked well.

Ethnic Federalism as a New State-Building Approach in Post-1991 Ethiopia: Its Pitfalls and the Way Forward

Dr. Mohammed Dejen Assen

Abstract

In contrast to the imperial and the Derg regimes which were based on assimilation and authoritarian repression policies against ethnonational demands for autonomy and self-rule, the post-1991 regime instituted "ethnic" federalism as a new state-building approach to respond to the demand for accommodation of diversity and equality of all ethnic groups. Notwithstanding some positive contributions of the new system in terms of the promotion of cultural rights and the use of local languages in state bureaucracies, the new system has exacerbated the politicization of ethnic identity which is inimical to societal integration and state-building. This paper examines the pitfalls of ethnic federalism as a state building process by focusing on the organization of regional states and political parties along ethnic lines. Using a qualitative research methodology and data collected from primary and secondary sources, this study found that ethnic polarization has increased as a result of the structural and socio-political emphasis on ethnic identity and ethnic mobilizations by ethnic-based political parties. Hence, de-politicizing ethnicity through regional state boundary re-adjustments, along with designing political and legal mechanisms to control the activities of political parties and prevent them from using ethnicity and other identity markers in their political campaigns, are crucial for smooth relations between ethnic groups and effective state-building endeavors.

Introduction

Ethiopia, the second most populous country in Africa next to Nigeria, is an extraordinarily diverse country in terms of ethnic, linguistic, cultural, and religious identities. It hosts more than 85 ethnic groups, 75 languages, all major

world religions, and variety of cultures[1]—this diversity is well-captured in the words of Italian Ethiopianist historian Carlo Conti Rossini, who called it "*un museo di popoli*" (a museum of peoples). Despite these bare facts, most of the imperial rulers of the country (1855-1974) were known for their policies of assimilation and their disregard for diversity in the name of nation-building. This policy continued unabated until the overthrow of the socialist-oriented Derg military regime which ruled from 1974 to 1991.

Multiethnic countries like Ethiopia often face difficulties when dealing with issues of how best to bring about national unity and build the state. In broad but simplistic terms, they might have two options: either 1) Elimination (to follow a policy promoting assimilation to the mainstream dominant culture, language and religion), or 2) Accommodation (to recognize diversity by establishing a nation under the notion of multiculturalism and a multinational governance arrangement).[2] In the former category, countries often use certain litmus tests to check whether the groups to be assimilated or otherwise integrated are ready for that process. Among others criteria, language, culture, religion, etc. were employed to screen out "fit and unfit candidates." Historically, nation-building was used to mean religious, cultural, and linguistic homogenization to the extent where a "nation-state," or any state for that matter, was understood to mean a country inhabited by communities with one language, one religion, and a similar culture.[3]

The litmus test for being included in the Ethiopian nation during the imperial periods was subscribing to the three homogenizing/nation-building elements: Amharic language, Orthodox Christianity and the Semitic culture.[4] These tests

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[1] Central Statistics Agency, "Summary and Statistical Reports of 2007 Population and Housing Census: Population Size by Age and Sex," (FDRE Population Census Commission, Addis Ababa, December 2008).

[2] Wayne Norman, *Negotiating Nationalism: Nation Building, Federalism and Secession in the Multinational State* 39 (2006).

[3] Sanghamitra Bandyopadhyay & Elliot Green, "Nation-Building and Conflict in Modern Africa," 6 (The Suntory Centre, London, 2008).

[4] See, for example, Eric Horace Gilchrist, "Haile Selassie and American Missionaries: Inadvertent Agents of Oromo Identity in Ethiopia," (MA Thesis, North Carolina State University, 2003); John

were widely used despite the presence of more than 85 ethnic groups and varieties of cultures and religions in the country. As some scholars have noted, among all African leaders, Emperor Haile Selassie of Ethiopia was the most aggressive in forging linguistic and religious homogeneity by declaring Amharic as the sole language of the country and the Orthodox Church as the only national church, discouraging and/or banning all other "pagan" languages and religions.[5] Languages, cultures, and religions other than the specified core identities were seen as antithetical to the Ethiopian nation. Hence, all forms of hyphenated identities (e.g., Oromo-Ethiopian, Gurage-Ethiopian, Tigre-Ethiopian, Sidama-Ethiopian, Somali-Ethiopian etc.) were associated with subversion and disloyalty to the nation-state agenda. Consequently, they were ruthlessly suppressed.[6] This was the dominant view at the time and continued unabated right up to the 1974 Revolution.

The "melting pot" model of the Ethiopian "nation-state" under the umbrella of Semitic culture, the Amharic language, and Orthodox Christianity, as envisioned during the imperial regimes and to a lesser extent during the Derg regime, failed to materialize in the wake of the rise in ethnic consciousness and mobilization that the world has witnessed at the close of the 20th century. Various political elites and community leaders not only resisted assimilation and marginalization but mobilized their respective ethnic groups (both on primordial and instrumental bases) to overthrow their assimilators and oppressors. Hence, the broader and more abstract/imagined "Ethiopian identity" failed to override ethnic divisions in the country. Due to a combination of factors including ethnic suppression, alienation, and exclusion—partly on the basis of their identity and partly because of social and historical factors—ethnic resentment grew and stood against the oppressive regimes, to an extent that resulted in the restructuring of the "rules of

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Markakis *Ethiopia: Anatomy of a Traditional Polity* (1974); and Sara Vaughan, "Ethnicity and Power in Ethiopia," (Doctoral Dissertation, the University of Edinburgh, 2003).

[5] Bandyopadhyay & Green, *supra* note 3, 6-7.

[6] Christopher Clapham, *The Ethiopian Experience of Devolved Government*, 1.1 Ethiopian Journal of Federal Studies 24 (2013).

the game" from assimilation to "ethnic accommodation" under the ethnic-based federal system post-1991.

Since 1991, effort has been made by the ruling party, the Ethiopian People's Revolutionary Democratic Front (EPRDF), to reverse the notion and practice of nation-building through assimilation. By making ethnicity/identity a core criterion for state formation, it heralded the formal institutionalization of ethnic politics and governance in the country. This official policy has heightened ethnic consciousness and the politicization of ethnicity. Nowadays, it is not uncommon to observe that a person's ethnic identity impacts their day-to-day activities, ranging from holding a kebele[7] identification card, to admission to higher educational institutions, occupying a high-ranking government position, being elected to the legislature, or forming/joining political parties. As a consequence of the ethnic-based political engineering of the Ethiopian state, almost all regional states, zones, and districts are named after the dominant ethnic group living in these areas. Several of the political parties—both the incumbent and the opposition—are exclusively organized along ethnic lines. Inevitably, the policies set by these ethnic parties and self-ruled regional states reflect ethnic interests, which often contradict or fail to incorporate the interests of other ethnic groups and national interests that are vital for state-building.

This paper argues that the structural and sociopolitical emphasis on ethnic identity is a core challenge for the country's peace and stability, its state/nation-building process, and the peaceful coexistence of different ethnic groups. There is abundant evidence that ethnic groups are often fighting for their members to occupy higher government offices by any means at their disposal, including violence and uprising. Citizens are often discriminated against because of their ethnic origin in the context of the job market, educational opportunities, access to public services, political appointment, and recruitment in the military and the police force. The notion of the "son of the soil" is widely applied in different ethnic-based regional states, zones, and districts to exclude "non-indigenes"

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[7] Kebele, an Amharic term, denotes the lowest level of state administration in Ethiopia.

despite the constitutional provisions for non-discrimination on the basis of, *inter alia*, ethnicity, social origin, and place of birth.

When politics is played out and maneuvers are made under ethnic terms, unhealthy competition and distrust among ethnic groups is bound to occur. The hegemonic impulse unavoidably pushes political elites to control the state apparatus to "benefit their ethnic groups" at the exclusion of others. Though the federal government is trying to balance ethnic representation at the national level, again inevitably dissatisfaction among ethnic groups remains a fact of life. Some are over-represented while others under-represented, if not absent. This under- and over-representation in turn creates grievances on the part of the former. Even those represented are dissatisfied with the importance of the positions to which their co-ethnics are appointed.[8]

In politicized ethnicity, literature confirms that political elites mobilize their respective ethnic groups to control the state machinery.[9] The dominant ethnic group(s) and ethnic-based political parties may not negotiate for key positions to be occupied by other ethnic groups or political parties (who are perceived to be dangerous enemies rather than simple opposition). It comes as no surprise, therefore, that people in Ethiopia are counting their co-ethnics at the government offices and "calculating" the weight of the positions held for the benefit of their ethnic groups. Public perceptions are rising alarmingly that few ethnic groups

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[8] The positions of the Prime Minister (Head of the Government) and the President (Head of the State), for instance, cannot be considered equal or equivalent as the authority of the latter is only nominal. All the powers and functions of the President listed under article 71(1-7) are only nominal. Opening the joint session of the Upper House and the Lower Chamber of the Parliament, proclaiming laws and international agreements approved by the House of People's Representatives (HPR) in the *Federal Negarit Gazeta* through his/her signature, appointing ambassadors and other envoys upon recommendation of the Prime Minister, receiving the credentials of foreign ambassadors, etc. are all just ceremonial powers. The Prime Minister, on the other hand, is a real power holder in the country because he/she is the chief executive and the commander-in-chief of the national armed forces (article 74).

[9] Donald L. Horowitz, *Ethnic Groups in Conflict* (1985).

control the political apparatus and many feel alienated. As a consequence, public protests and ethnic violence are swiftly spreading across the country.

Now, after three decades of the ethnic-based federal experiment (1991-2022), the adverse effects of ethnicized politics are clearly felt. What is lacking is a research-based alternative solution to the problems. This paper is intended to fill this gap.

1. Ethnicity, Identity Politics, Political Parties, and Their Link with State-Building

1.1. Ethnicity and politics: The link

Scholars have not reached consensus on a universally-accepted definitions of the terms 'ethnicity' and 'ethnic group'.[10] The term ethnicity is used to mean "the essence of an ethnic group or the quality of belonging to an ethnic community or group."[11] Gurr defines ethnic group as "people who share a distinctive and enduring collective identity based on a belief in common descent and on shared experiences and cultural traits."[12] Max Weber defines ethnic groups as "those human groups that entertain a subjective belief in their common descent because of similarities of physical type or of customs or both, or because of memories of colonization or migration, this belief is important for the propagation of group formation. Conversely, it does not matter whether or not an objective blood relationship exists."[13] Hutchinson and Smith define ethnic group as "a named human population with myths of common ancestry, shared historical memories,

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[10] John Hutchinson & Anthony D. Smith, *Introduction* to John Hutchinson & Anthony D. Smith (eds.), *Ethnicity* 1 (1996).

[11] *Ibid.*, 4.

[12] Sabine Carey, "A Comparative Analysis of Political Parties in Kenya, Zambia and Former Zaire" 4-5, *Parties, Party Systems and Democratic Consolidation in the Third World*, Workshop 13, Grenoble, 2001.

[13] F. O. Ottoh, "Ethnic Identity and Conflicts in Africa," in S. O. Oloruntoba & T. Falola (eds.), *The Palgrave Handbook of African Politics, Governance and Development*, 338 (2018). https://doi.org/10:1057/978-1-349-95232-8_17

one or more elements of a common culture, a link with a homeland and a sense of solidarity."[14]

Ethnicity can also be defined either from primordialist or instrumentalist viewpoints. The primordialists define ethnicity on the basis of social bonds such as religion, culture, language, blood, etc., that are "over-powering and ineffable."[15] Based on this theory, ethnicity is fixed at birth and, hence, permanent. Because biological bonds are so strong, as primordialists believe, the best way to resolve ethnic conflicts is to allow such groups to live in their state of choice, even allowing them to secede from an existing state. Forcing ethnic groups who are driven by identity politics to remain within the existing state by any means possible would inevitably result in civil war and, at worst, state collapse.[16]

Instrumentalists, on the other hand, argue that ethnicity is more of a "social, political and cultural resource for different interests" and, hence, can be changed on the basis of rational calculations.[17] As per their argument, ethnicity is "rooted in 'historical' and 'symbolic' memory created, used and exploited by leaders and others in pragmatic pursuit of their own interests."[18] According to this instrumentalist theory, ethnicity is something subject to change for pragmatic considerations. Identity politics, for the instrumentalists, is not about biological determinants but a result of structural social inequalities. In this situation, the elites from the excluded groups mobilize people to control power and change the social structure or decide their own fate themselves. Hence, identity politics is the result of an elite mobilization of marginalized ethnic groups for political power or a struggle over changing the structure of the state that anchored marginalization and discrimination. In this case, ethnic conflict is not caused by ethnic differences but by politics. Since ethnic conflict is caused more by politics than biological or

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[14]   *Ibid.*

[15]   Hutchinson and Smith, *supra* note 10, 8.

[16]   Mesay Kebede, "The Nature and Challenges of Ethnicity: The Case of Ethiopia," paper presented at *Ethiopian Forum: Challenges and Prospects for Constitutional Democracy in Ethiopia,* Michigan State University, 2019.

[17]   Hutchinson, and Anthony D. Smith, *supra* note 10.

[18]   Ottoh, *supra* note 13, 339.

cultural identification, the solution lies in political arrangements (in the form of power-sharing or a federal system) that guarantee fair political representation and resource-sharing for all concerned actors.

These two schools of thought offer diametrically opposed explanations for the relationship between ethnicity and conflict. While the primordalists argue that ethnic differences by themselves are causes for ethnic conflict—as it creates mutual fear and distrust among in-group and out-group members[19]—the instrumentalists argue that ethnic differences by themselves cannot be a cause for ethnic conflict but can only be a cause when ethnicity is politicized or manipulated by elites.[20] The primordialists are criticized for only focusing on objective elements of ethnicity and ignoring other subjective factors and in their claim that mere biological differences can cause ethnic conflicts. The instrumentalists are also criticized for only emphasizing the subjective elements of ethnicity by ignoring the inevitable ties between people through blood, culture, religion, and language inherited from their ancestors. Although the rational calculation of elites and ethnicity's resulting instrumentalization for the purposes of mobilization can cause ethnic conflicts, these theories fail to explain how the masses simply follow them to fight without having some affectional relations.[21]

In Ethiopian, both definitions are manifested in the 1995 Constitution (Article 39(5)), though it never uses the term "ethnic group"—but instead nation, nationality, and people. It defines nation, nationality, and people (NNP) as "a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory."

Many political scientists and analysts believed at one point that ethnic bonds will disappear and be replaced by modern liberal democracy as a result of

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[19]   Horowitz, *supra* note 9.
[20]   *Ibid.*
[21]   Mesay Kebede, *supra* note 16.

modernization, urbanization, globalization, and improvements in mass communications. They assumed that ethnicity will no longer influence the political processes.[22] Nonetheless, these assumptions remained unrealized. Ethnic mobilizations occurred in several Western liberal democracies including the UK, France, Spain, and Belgium, as manifested by the territorially concentrated linguistic mobilizations of Celtic-speaking populations, Bretons and Corsicans, the Basque Independent Movement (ETA), and Flemish-Walloon cleavages, respectively.[23] The Catalonian referendum for independence from Spain on October 1, 2017, the secessionist referendum of Scotland in the UK, and the separatist movements of Quebec in Canada are real, high-profile examples of the growing sentiment of ethno-nationalism and identity politics. In consequence, there is a shift of focus and attention in the 20th century surrounding the relationship between ethnicity and politics. Particularly since the 1990s, a considerable amount of literature has been produced that has influenced state responses when either devising a mechanism of ethnic repression or opening up state institutions for the official recognition and accommodation of ethnic groups and special ethnic representation for effective state/nation-building undertakings.

1.2. State-building versus nation-building: Conceptual clarifications

In the study of political science, the state is an abstract entity that can be felt only through its institutions and organizational structures. A state, according to Bratton, is "the set of fixed administrative institutions that claim legitimate command over a bounded territory" using its "coercive arms—army, police, courts, … [and] specialized bureaucracies governed by norms of law and reason."[24] State-building is, therefore, very much connected with the

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[22]   Peter Vermeersch, "Theories of Ethnic Mobilization: Overview and Recent Trends" 3, CRPD Working Paper No. 3, University of Leuven, 2011.

[23]   *Ibid.*

[24]   Michael Bratton, "State-building and Democratization in Sub-Saharan Africa: Forwards, Backwards, or Together?" 1, Afrobarometer Working Paper No. 43. (2004).

establishment of institutions by the government to deliver services for society in order to earn legitimacy.

In some instances, there is a tendency to use the terms state-building and nation-building interchangeably, equating the word "state" and "nation" as if they are synonymous. Notwithstanding some similarities, the two concepts are different. State-building is about the construction of institutions for establishing a functioning state. Nation-building, on the other hand, is about the construction of a national identity, of course, for the purpose of creating a functioning state. They converge in their ultimate goal of creating a functioning state. According to Dinnen, state-building is "the task of building functioning and durable states capable of fulfilling the essential attributes of modern statehood," which includes "providing security from external threats and maintaining internal order, raising and collecting taxes, delivering essential services such as health and education, the provision of transport and communications infrastructure, and the prudent management of the economy."[25] Nation-building, on the other hand, is "the process of developing a shared-sense of political community that is capable of binding together a population of a given state." Nation-building requires the coordinated efforts of different stakeholders in the country; the government being the major one. In comparison, while state-building focuses on establishing or strengthening state institutions, nation-building concerns the character of relations between society and state.

Although they are distinct in some respects, they are related to one another in that both are concerned with creating mechanisms of societal integration. Building effective state institutions is one important condition for strengthening nationhood. Put simply, the fundamental attributes of statehood mentioned above are necessary foundations for "nation-building" processes. Nation-building often stands for the construction of national identity, while state-building refers to the institutions and infrastructural capacities of the state.[26] Beyond the orthodox

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[25] S. Dinnen, "The Twin Processes of Nation-building and State-building" 2, ANU Briefing Note. Number 1. (2007).

[26] DFID Practice Paper, 12, Building Peaceful States and Societies, U.K. (2010).

"state-building" components, nation-building presupposes shared characteristics of identity, values, and goals. In a multiethnic context, nation-building is not so much the homogenization of these characteristics through nation-state logic, but rather the recognition, acceptance, and toleration of heterogeneity and the facilitation of inclusion, or "unity in diversity." For our analysis of the pitfalls of ethnic federalism as a model for the state-building approach in Ethiopia, both are relevant and may sometimes be used interchangeably. This paper takes up the state-building process in Ethiopia in two interrelated dimensions: both enhancing the capacity of the state to function, and as regards the political processes that underpin state-society relations or the creation of one political community with shared vision and goals.

1.3. State-building approaches: Theory and practice

Comparatively, there are several approaches for state-building and nation-building. McGarry & O'Leary have identified four major long-practiced approaches.[27] The assimilationist and secessionist approaches are found at the two extremes of the nation-building spectrum, while the integrationist and accommodationist are found in between. While the first two deal with the elimination of diversity, the second two deal with possible ways to balance unity with diversity.

The first approach, an *assimilationist approach* wherein citizens are expected to assimilate to a particular national language, religion, and political culture, is guided by a nation-state theory.[28] This nation-state building approach is aimed at conferring indivisible citizenship and a single national identity. This approach could in turn be divided into Jacobian republicanism (e.g., France) and a cultural difference-blind or liberal nationalism approach (e.g., the U.S.). For Jacobins,

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[27] J. McGarry & B. O'Leary, "Federation, conflict-regulation and national and ethnic power-sharing," Paper prepared for delivery at the Annual Meeting of the American Political Science Association, 2003.

[28] The nation state theory presents the principle that each nation, embodying a shared community of culture and blood, is entitled to its own state. Here, the formation of nations preceded the establishment of states.

nationalism and federalism were mutually exclusive. They viewed federalism as antagonistic to cultural and linguistic homogenization, a roadblock in the path of authentic, indivisible, monistic popular sovereignty. The Jacobins were deeply hostile to all forms of accommodation that inhibited this goal, including federalism. The *Jacobian approach* views federalism as a state-destroying instrument and unfit for state nationalism and civic equality, while the *liberal nationalism approach* or American Model promotes individual liberty and a difference-blind approach to nation-building processes.

The second is *an integrationist approach* which tries to provide incentives for mixing ethnic identities and establishing umbrella parties (e.g., Nigeria). For Nigeria, though the country is said to be in perpetual search for federalism,[29] federalism is said to be a search for national integration,[30] or an "effective way of achieving and preserving both integration and stability in deeply divided societies." This mechanism focuses in particular on engineering electoral institutions to create disincentives for political mobilization based on identity, with the aim of establishing a common identity and balancing multiple interests; it is basically a project of integrating the interests of members of the majority with those of the minority in policymaking.

The third is the *accommodationist* approach, which comes in different forms: consociationalism, power-sharing, territorial autonomy, or multinational federalism (e.g., Canada, Belgium, Spain). This approach institutionalizes and aims to protect at least two national or ethnic cultures on a durable basis. Here, federalism is viewed as a political and institutional arrangement to accommodate national/ethnic groups within the boundaries of a given state. This approach does

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[29] D. Babalola, "Nigeria: A Federation in Search of Federalism," 50 Shades of Federalism (2017) http://50shadesoffederalism.com/case-studies/nigeria-federation-search-federalism/

[30] National integration in a plural society is when "component parts are reasonably contented in the polity vis-à-vis equity and justice in resource allocation cum access to equal opportunities." See Emmanuel O. Ojo. (2009). *Federalism and the search for national integration in Nigeria*, 3.9 African Journal of Political Science and International Relations 384, 386 (2009).

not aim to avoid ethnic differences but to alleviate ethnic grievances by granting territorial self-rule to geographically concentrated ethno-national groups.

Based on the method of accommodating nationalism and ethnic diversities, two types of federations—mono-national and multinational—could be identified.[31] From this perspective, while the U.S., Australia, Germany, and Mexico are mono-national federations, Canada, Switzerland, India, Belgium, South Africa, and Ethiopia are classifiable as multinational ones.[32] Multinational federations are polities that hold together at least two constituent national partners; they are based on the principle that accommodated groups represent people who might be entitled to rights of self-determination.[33] Put simply, a multinational federation is "a nation of nations" having one polity but several peoples.[34] In principle, the purpose of multinational federalism is to enhance people's sense of ethnic membership in the state, not to abandon the ethnic or people's sense of identification with the overarching state. Such a model of federalism admits the ethnic or cultural element of the multidimensional concept of national and state identity.

Such federations not only maintain that dual or multiple national loyalties are possible and indeed desirable, but conceive of the federation as uniting people "who seek the advantages of membership in a common political unit, but differ markedly in descent, language, and culture."[35] Multinational federations "seek to express, institutionalize, and protect at least two national or ethnic cultures, on a durable and often on a permanent basis."[36] In a multinational federation, a number of different nations exist, each with their own values, customs, language,

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[31] McGarry & O'Leary, *supra* note 27. B.

[32] *Ibid.*, 4.

[33] *Ibid.*

[34] F. Requejo, *Multinational Federalism and Value Pluralism: The Spanish Case* (2005).

[35] *Ibid.*

[36] McGarry & O'Leary, *supra* note 27.

interpretation of history, and sense of their political, economic, and cultural role.[37] The multinational federation falls in line with the view that the state cannot be ethnically neutral in choosing a language—a key marker of group identity—for parliaments, courts, education, and the media;[38] and "individual elites do not come to a polity building culturally naked."[39] Given that multinational federalism endorses national pluralism, it is explicitly opposed to the integrationist or assimilationist objectives of mono-national federalism.[40]

From this perspective, despite limitations in the process by which it was formed, the federation of Ethiopia was established to respond to the "nationalities questions" raised by the Student Movement of the 1960s. It can be regarded as an instance of multinational federalism because it grants sovereignty to every "Nation, Nationality or People,"[41] along with an unconditional right to self-determination that includes the right to secession.[42] Inasmuch as there is no significant distinction between the "nation," "nationality," or "people" and an "ethnic group," the Ethiopian federation has *ipso facto* endorsed ethnic pluralism and, with it, ethnic federalism as a state-building approach. It not only recognizes ethnic diversity but also made ethnicity the organizing principle for state formation and political party organization, both of which have a bearing on state-building processes and the unity of the Ethiopian state and people.

1.4. Political parties and state-building

Despite the lack of a universally agreed definition, a political party can be defined as "a group that is publicly organized with the intention of gaining control of

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[37] W. Kymlicka, "Emerging Western models of multination federalism: Are they relevant for Africa?" in D. Turton (ed.), *Ethnic federalism: The Ethiopian experience in a comparative perspective* (2006).

[38] W. Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity* (2007).

[39] Assefa Fiseha, *Constitutional Adjudication through Second Chamber in Ethiopia*, 16.3 Ethnopolitics 295 (2018)

[40] McGarry & O'Leary, *supra* note 27, 5-6.

[41] Article 8 of the FDRE Constitution.

[42] Article 39(1) of the FDRE Constitution.

government to realize certain aims or to obtain personal advantages or both" with a possibly longer life-span than other forms of societal organizations.[43] One of the key features of political parties, according to Alan Ware, is that "they seek to represent more than a single, narrow interest in a society."[44] There are different theories of the relationship between ethnicity and political parties or party systems. All major theories on the determinants of voting behavior relate with social affiliations.[45] In this regard, ethnicity can be easily integrated with such affiliations. For example, the micro-sociological approach argues that "a person thinks politically as he is socially,"[46] implying that ethnic voting is one component. The macro-sociological cleavage approach strengthens this argument.[47] The socio-psychological approach asserts that party preferences are very much related to social ties.[48] The rational choice theory is also related to ethnic voting as voters calculate the benefits of getting better services if they elect a candidate with the same ethnic affiliation.[49]

In postcolonial Africa, both organizing political parties along ethnic lines and multi-partyism itself were discouraged, and many of the renowned liberation movement leaders suggested one-partyism as a means for effective nation-building. From Ghana to Kenya, Tanzania to Zambia, Zimbabwe to Angola, and Mozambique to Senegal, all proposed having a single party system as having several parties would increase ethnic, religious, and regional polarizations and hinders the process of economic development, social integration, and nation-building. Jomo Kenyatta of Kenya, Julius Nyerere of Tanzania, Kwame Nkrumah of Ghana, Robert Mugabe of Zimbabwe, Kenneth Kaunda of Zambia—to mention only a few—all either discouraged or prohibited multi-party system in general and

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[43] Osita Agbu, *An Overview of Party Formation in Nigeria, 1960-1999* 27, Elections and Governance in Nigeria's Fourth Republic, CODESRIA (n.d.).

[44] Carey, *supra* note 12, 9.

[45] M. Basedau and A. Stroh, *How Ethnic are African Parties Really? Evidence from Four Francophone Countries*, 33.1 International Political Science Review 5, 6 (2011).

[46] *Ibid.*

[47] *Ibid.*

[48] *Ibid.*

[49] *Ibid.*

ethnic parties in particular. Nyerere, for example, contends that "the consolidation of statehood nation-building required the elimination of polarizing tendencies."[50]

However, though many African states and leaders shied away from institutionalizing ethnic politics in their legal systems fearing aggravated ethnic competition, violence, and state disintegration, politics often plays out along ethnic lines.[51] By analyzing the roles of ethnicity in politics in some African countries, Sebastian Elischer argues that the salience of ethnicity in the political system is high in countries lacking a core ethnic group, while it is lower in countries having one core ethnic group.[52] Mbatia, Bikuru, and Nderitu argue that nationalist movements and popular ideologies lost appeal in many African states, prompting politicians to appeal to ethnic identity for political mobilization. If not checked, they fear that majority ethnic groups will use their numeric advantage to influence political processes and resource allocation.[53]

Post-1991 Ethiopia is an exception in this regard insofar as its supreme law officially acknowledges ethnic diversity and the institutionalization of ethnic politics through an ethnic-based federal system. In response to this institutional set up, parties in Ethiopia—both the incumbent and the opposition—are more regional and ethnically divided, and are very much fragmented, producing negative impacts on the state-building process and societal integration.

Scholars argue that the structures of political parties and the way they operate determines the normal functioning of the institutions of a state.[54] The way the political parties organize and operate affects the unity or division of peoples and

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[50] Dima Neggo Sarbo, "Contested Legitimacy: Coercion and the State in Ethiopia" 72 (PhD Dissertation, University of Tennessee. 2009).

[51] Lydia Ludgren, Saul Cunow, & Devesh Tiwari, *Beyond Ethnic Politics: An Empirical Test of Patron-Client Theory in Sierra Leone* 2 (2013).

[52] Sebastian Elischer, *Political Parties in Africa: Ethnicity and Party Formation* (2013).

[53] Paul Mbatia, Kennedy Bikuri & Peter Nderitu, "The Challenges of Ethnicity, Multiparty Democracy and State Building in Multiethnic States in Africa," in Kabiri Ngeta, Kimani Njogu, & Mary Wanjau (eds.), *Ethnic Diveristy in East Africa* 183 (2010).

[54] Aalen Lovise, *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000* (Chr. Michelsen Institute, Development Studies and Human Rights, 2002)

ethnic groups. If political parties are organized along ethnic lines and their electorate is concentrated in ethnically organized constituent units, it is more likely that regional leaders will play ethnic cards to challenge the unity of the state and peaceful ethnic co-existence. Moreover, political parties serve as institutions and structures for identity politics. Whenever party organizations are allowed, if not required, to be based on ethnicity, identity politics and ethnic polarization will be further aggravated. Proliferation of ethnic political parties in Ethiopia, for instance, resulted in parties manipulating ethnic differences to obtain votes and control state power.[55] Ethnic parties, in this instance, are organized not for championing democracy and the equality of individuals but as a platform to struggle for controlling political power in the name of their respective ethnic group; this ultimately endangers the country's survival and ethnic coexistence, as will be discussed in the subsequent parts of this paper.

1.5. Identity politics and state-building

Eisnberg and Kymlicka define identity politics as "a process whereby an array of identity groups have become politicized and mobilized on the basis of gender, race, language, ethnicity, indigeneity, religion, and sexuality"[56] Identity politics can be shaped by "aspects of belonging and social organizations" that focus on the interests and perspectives of groups.[57] As explained by Check, identity politics "relates directly towards a tendency for people of a particular ethnic group, religion or social background to form exclusive political alliances moving away from mainstream political and broad-based political party politics."[58]

Despite the belief of many scholars that ethnic identification and its attendant identity politics disappears with modernization and urbanization, the relevance of identity has increased dramatically. The actions of individuals, groups, and parties

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[55] Arriola, R. Leonardo, *Ethnicity, Economic Conditions, and Opposition Support: Evidence from Ethiopia's 2005 Elections*, 10.1 North Eastern African Studies 115 (2008).

[56] N. A. Check, "Identity Politics and Wars of Secession in Africa," in S. O. Oloruntoba & T. Falola (eds.), *The Palgrave Handbook of African Politics, Governance and Development* 321 (2018).

[57] *Ibid.*

[58] *Ibid.*

based on an identity-based worldview have mounted. In conflict and other precarious situations in particular, groups and individuals alike want to align with their in-group members for security reasons by dissociating themselves from potential or actual rivals. In such situations, political actors and elites manipulate the in-group in a politically calculated manner to gain an advantage over other ethnopolitical opposition groups. Scholars argue that "the instrumentalization of cultural difference stems in most cases from the temptation of power-conscious leaders to justify differences of position in the struggle for material advantage or for defending 'inherited privileges' or to assert material claims against 'others.'"[59]

In multicultural contexts such as Africa, people are divided along different identity lines and they attach different weights to such identities. Moreover, people unavoidably face different forms of inclusion and exclusion because of their identities. Because of the fallout from identity politics in many countries in Africa, tragic genocides and mass killings happened. The most extreme events, from genocide in Rwanda, to civil war in Somalia, to ethnic violence in Kenya, were related to identity politics. Moreover, several secessionist attempts, with their attendant negative impacts on state stability, also occurred in Nigeria, Congo, Uganda, Senegal, and Djibouti.[60]

The way differences are managed further exacerbates or moderates identity politics and conflict in many parts of Africa. Some states followed a policy of assimilation to create a homogenous nation-state whereas others attempted to craft institutions for accommodating diversities. Obviously, the methods of repression and assimilation—more than their undemocratic nature—did not produce the intended outcome of homogenized states in Africa. Accommodation of diversity through institutional arrangements like (ethnic) federalism also did not produce the intended results of ethnic equality and political stability, since this

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[59] R. Tetzlaff, "Globalization and Nation-building – Not in Contradiction in Terms," in Jochen Hippler (ed.), *Nation-building: A Key Concept for Peaceful Conflict Transformation?* 19 (2005).

[60] *Ibid.*

is either implemented as a "divide-and-rule" tactic inherited from the colonial powers or suffers from weaknesses related to its implementation.

Ethiopia, despite being unique in the African continent as it successfully resisted colonial rule, did not escape the colonial influence that affected its neighbors. It followed a policy of assimilation in a state-building project copied from that which colonial powers practiced in their colonies. Later, however, due to resistance from different ethnic groups, it reconfigured the state along ethnic lines which resembles the "divide-and-rule" tactic of colonial powers. Those who controlled state power in post-1991 Ethiopia—a minority from Tigray, the TPLF—saw ethnic federalism as the best way to govern the majority with this tactical division.[61]

There are scholars who argue that the Ethiopian ethnic-based federal system is not a genuine response to the self-determination quest of the different national groups but is instead simply a "divide-and-rule" policy on the part of the TPLF-led EPRDF regime.[62] For example, Aalen Lovise contends that; "as a minority-based government, the Tigray People Liberation Front (TPLF) saw ethnic federalism as the best means to retain a leading position in an Ethiopian State, as an efficient tool to 'divide-and-rule.'" She further argues that "the launch to 'self-determination for nationalities' was not primarily an outcome of ideological conviction or a desire to pacify ethnic wars, but served essentially as an instrument in securing the new power holders' control of the state apparatus."[63] Merera also argues that "the easiest way to maintain minority hegemony is to use the time-tested divide and rule policy."[64]

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[61] See, for example, Aalen Lovise, "Institutionalizing the Politics of Ethnicity: Actors, Power and Mobilization in Southern Ethiopia under Ethnic Federalism" (PhD Dissertation, University of Oslo, 2007); Merera Gudina *Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy, 1960-2000* (2003).

[62] *Ibid.*

[63] *Ibid.*

[64] Gudina, *supra* note 61, 88.

By default or design, the Ethiopian ethnic federal system—the divide and rule tactic of the minority TPLF-led EPRDF regime—pitted ethnic groups[65] against each other and laid the foundations for disunity. It negatively affected the state-building project wherein ethnic groups are struggling to maximize their benefits at the expense of others. Political parties are fragmented along ethnic lines and citizens are treated differently because of their ethnic background.

Today, Ethiopian politics has graduated from identity politics to "ethnic nationalism" which ultimately seeks for a sovereign existence as an independent state separated from Ethiopia. What we can observe as a state of separation from other ethnic groups—be it at a woreda, zonal or regional level—is a desire for independent existence from others.[66] There is a persistent quest for statehood by every ethnic group in the country. Moreover, those ethnic groups which are granted statehood as per Article 47 of the 1995 Constitution are competing with the Ethiopian state for sovereignty. Some of them acquired official names that are equivalent with a nation/country recognized as sovereign under international law. Article 47(2) lists them as the "State of Tigray, the State of Afar, the State of Amhara, the State of Oromia, the Sate of Somalia, etc." in a similar fashion that independent countries are named. This has emboldened some of the ethnic groups and political elites who owned such states to demand independent statehood or secession. The recent war (from November 2020 onwards) between the federal government of Ethiopia and the TPLF, wherein the latter—former governing party of Ethiopia—is touting secession is, one manifestation of this process.

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[65] The TPLF elites worked hard in pitting the Oromos against the Amharas to keep them apart and prevent them from creating solidarity against the oppressive TPLF-led EPRDF regime. They propagated the oppression of the Oromos and the suppression of their culture and language by the previous Amhara-dominated regimes. The state media was encouraged to rehash the historical domination narrative and, even in some cases, erected statues that commemorate the brutal nature of the previous regimes against the Oromos.

[66] Several zones in Southern Nations, Nationalities and People's Regional State are demanding establishment of their own ethnic-based regional states and secession from the existing state. The Sidama ethnic group succeeded in forming their own regional state in 2020. Wolaita, Gedeo, Gurage, and other ethnic groups are demanding statehood.

2. State-Building Approaches in Ethiopia: Past and Present

The present state of Ethiopia is formed by war and conquest of various previously autonomous territories and peoples across time and space. Rulers, particularly from the northern part of the country, conquered large areas in the southern, western, and eastern parts of present-day Ethiopia. As a result, various ethnic, linguistic, religious, and cultural groups were brought together, which makes the country a "museum of nationalities."[67]

Emperor Menelik II (r.1889-1913) is credited for forging the present version of Ethiopia in its current geographic shape and ethnic make-up. However, it was Emperor Haile Sellassie I (r.1930-1974) who institutionalized his rule by introducing a constitution and centralizing power in his hands. With the purpose of effective centralization and portraying the country as a modern or civilized state, he introduced the 1931 Constitution. This Constitution contained about 55 Articles, most of which emphasized the semi-divine nature of the Emperor and the unquestionability of his power. Nothing is said about the different ethnic, linguistic and religious groups of the country. The Emperor also revised his constitution in 1955 following the federation of Eritrea with Ethiopia in 1952. No further improvement has been made to the previous constitution except for the inclusion of some sort of separation of power (legislative, executive, and judiciary) and principles of human rights. It even further strengthened the power of the Emperor. The two constitutions introduced by the Emperor did not recognize the rights of the different ethnic groups that *de facto* existed on the ground, as Ethiopia had to face the heavy-handed centralization and homogenization policies of Emperor Haile Selassie I. The centralization and homogenization effort of the Emperor was multifaceted—political, religious, economic, linguistic, and cultural. In fact, he owed much of the work in these fields to his predecessors. However, the homogenization efforts of the previous emperors were comparatively superficial and lacked institutional frameworks. Emperor Haile Selassie embarked on a more systematic and aggressive process of centralizing and homogenizing the country's diverse societies because the unity of the country was believed to be

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[67]   Markakis, *supra* note 4.

buildable on the graveyards of such diversities. This conviction of the Emperor can be seen clearly from the following quote from Bahru Zewde;

> The strength of a country lies in its unity, and unity is borne of [common] language, customs, and religion. Thus, to safeguard the ancient sovereignty of Ethiopia and to reinforce its unity, our language and our religion should be proclaimed over the whole of Ethiopia. Otherwise, unity will never be attained … Amharic and Geez should be decreed official languages for secular as well as religious affairs and all pagan languages should be banned.[68]

He declared Amharic as the national language and Orthodox Tewahedo Christianity as the official religion of Ethiopia.[69] Despite apparent diversities, the Emperor tried to construct the Ethiopian nationhood based on this narrow but supposedly "core ethnic identity, core religion and core language."[70] Abebe Fisseha, illustrates the Emperor's policy of homogenization under the three "pillars of unity" when he writes;

> [Haile Selassie] began pursuing the goal of transforming the heterogeneous empire into a homogenous state based on three concepts, which were translated into the notion of 'one nation, one people'. These concepts were [*ye haimanot andinet* (religious homogeneity), *ye kuankua andinet* (linguistic uniformity) and *ye zer medebalek* (ethnic intermixing).[71]

Like his predecessors, Emperor Haile Selassie believed that "Amharaization and Christianization of the periphery" would be the prerequisite for national unity.[72]

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[68] Vaughan, *supra* note 4.

[69] Revised Constitution of Imperial Ethiopia, articles 125 & 126 respectively.

[70] Wudu Tafete Kassu, "The Ethiopian Orthodox Church, the Ethiopian State and the Alexandrian See: Indigenizing the Episcopacy and Forging National Identity, 1926-1991" (PhD Dissertation, University of Illinois, 2006).

[71] Quoted in *Ibid*.

[72] For almost all Ethiopian emperors consecrated with the blessing of the Church, unity and uniformity were seen as one and the same, as if the unity of the country were impossible without homogeneity in language, religion, culture, and political outlooks.

Despite his many legal and practical measures to impede the flourishing of diversity, Haile Selassie was very 'ingenious' as a leader insofar as he never displayed the policy of ethnic and religious assimilation as a public concern. Instead, he tried to show these differences to be irrelevant for devising public policies. What matters more, as he said himself, was the holistic conception of 'ኢትዮጵያዊነት (*iteyopeyāwinate*)'—literally meaning "*Ethiopian-ness*"—rather than the particularistic conception of Muslim or Christian, Oromo, Tigray, or Amhara.[73]

Due to popular protest, opposition from the different sectors of the society and the Ethiopian Student Movement, the Emperor was deposed by the Military Regime (Derg) in 1974. However, the military regime, was not less oppressive than the imperial regime. Although constitutionally speaking,[74] the provisions of self-determination for nationalities and the equality of languages, cultures, and religions among the different nationalities was introduced in 1987, it was not implemented in practice.[75] Those who demanded the implementation of their constitutional rights to self-determination were labelled reactionaries (against the Socialist Revolution) and narrow nationalists. Hence, they were both publicly and systematically eliminated from the scene. Except some concessions in the form of recognition of multi-religious and multiethnic Ethiopia, the Derg's policy towards the accommodation of diversity was more or less similar to the imperial regime. It promoted Amharic and the indivisible Ethiopian identity at the expense of other languages and ethnic identities.

The policy of assimilation seems to have been reversed following the adoption of a federal system of governance *de facto* since 1991 and *de jure* in 1995. The new system, with its constitutional federal state structure, not only recognizes but also

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[73] *Ibid.*

[74] Article 2 of the 1987 Constitution of the People's Democratic Republic of Ethiopia provides the right to self-determination of the different ethnic groups of the country. It states that the nationalities are equal and ensured the equality of nationalities through combating chauvinism and narrow-minded nationalism. It advanced the claim that this can be achieved by enhancing the equality and respectability of the languages of nationalities as well as through equal participation in economic, social, and cultural fields and the realization of regional autonomy.

[75] Gudina, *supra* note 64.

uses ethnicity and language as the bases for state formation. The previous core identities used as foundations for nation-state building just became one component of the "multi-linguistic, multicultural, multi-religious and multiethnic state of Ethiopia" under the umbrella of ethnic-based federalism.[76]

3. The Legal Framework for Accommodating Diversity in Post-1991 Ethiopia

Under the new Ethiopian federal system, the importance of ethnicity is on the rise. In sharp contrast to the policies of the former regimes, the new system recognizes and even rewards ethnic-based organizations (be they political, social, or economic). The new Constitution constituting the ethnic-based federal system envisaged a "mother-state" for all the ethnic groups of Ethiopia by dividing internal sovereignty between the central (federal) government and regional states.[77]

To reiterate the official idiom, ethnic federalism is intended to redress past injustices and cultivate a sense of unity in diversity by granting ethnic groups a full measure of the self-rule rights manifested through establishing one's own state. In principle, the Constitution guarantees all NNPs of Ethiopia their own home-state within the federation. If we take this constitutional declaration seriously, the country will be divided into at least 85[78] ethnic-based regional states for achieving various purposes: 1) to fulfill their unconditional right to self-determination up to and including secession; 2) to guarantee the right to a full measure of self-government in their own territory; 3) to realize the right to speak, write, and develop their own languages and express, develop, and promote their

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[76] The Ethiopian variant of federalism is sometimes termed as ethnic federalism as it uses, among other things, ethnicity as the basis for establishing constituent units of the federation.

[77] Articles 50, 51, and 52 of FDRE Constitution.

[78] Following a political reform in 2018 under the leadership of PM Abiy Ahmed, several ethnic groups are claiming their constitutional rights to establish their own state. The Sidama ethnic group has attained its own regional state status. Wolaita, Gamo, Gofa, and Kambatta ethnic groups are also heading towards the same end. Others will definitely follow suit after taking into account the benefits they could get from establishing their own state.

culture and preserve their history; and 4) to reduce ethnic tensions and conflicts by creating homogenous states. In practice, however, only nine regional states[79] are in place for the more than 85 ethnic communities in the country; all others subsumed under these states with the status of zone, wereda (district) or kebele[80] administrations.

The desire to create a homogenous administrative state for each of the more than 85 ethnic groups in the country is impractical, if not impossible. Hence, it failed to create autonomous and homogenous regional states for each and every ethnic group in Ethiopia. It is not a surprise therefore that none of these regional states are homogenous. Almost all states have a minimum of more than one ethnic group. Some of them, such as the Southern Nations, Nationalities and People's Regional State (SNNPRS) are even extraordinarily diverse and called a "museum of ethnic groups" or a "federation within a federation" themselves.[81] The SNNPRS alone consists of 56 ethnic groups (more than half of the country's ethnic communities).[82]

Apart from the impracticability of granting a home state to all ethnic groups, the territorialization of ethnicity resulted in the exclusion of a large portion of the Ethiopian people who are residing outside of their so-called home-state from political and economic benefits and stirred up tensions and conflicts across the country. It also exacerbated the politicization of ethnicity, dichotomizing people as owners and outsiders, newcomers and indigenes, titulars and non-titulars, etc.

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[79] At the time of the writing this paper, the number of regional states most recently reached 11 with the establishment of Sidama and the South-West Ethiopia Peoples' Regional States in June 2020 and November 2021, respectively. Both are separated from the multiethnic Southern Nations, Nationalities and Peoples' Regional State. All other major ethnic groups, such as the Wolaita, Gedeo, and Gurage are making similar moves for their own independent statehood within the federation. The federal government is planning to divide the region into different clusters but faces stiff resistance from the local population and the political elites.

[80] Kebele is the lowest level of state administration in Ethiopia

[81] Assefa Fiseha *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study* (2007).

[82] Central Statistics Agency, *supra* note 1.

The "son of the soil" criterion is being applied throughout the regional states where access to services is given to the "indigenes" at the expense of "settlers" or "outsiders." It has increasingly become difficult for an Amhara, Tigray, Oromo, Wolaita, Gurage, or a member of any other ethnic group to access political appointments, jobs, or educational opportunities in "other" ethnic-based regions, zones, or woredas other than their "own." Because of the notion of "the son of the soil" adopted in the ethnic-based regional states, one cannot be considered "indigene" irrespective of the number of years, or generations for that matter, he may have lived in that particular area. The primacy of the indigene and non-indigene categorization is made salient by the regional state constitutions wherein there is no way for the latter to be converted to the former to benefit from citizenship entitlements. In other words, the regional state constitutions exacerbated ethnic differences and the indigeneity versus non-indigeneity dichotomy by inscribing cleavages that ended up dividing instead of uniting the various sections of the society.

The troubling dimension of identity politics in Ethiopia is that it became the basis for inclusion and exclusion in the regional states' body politic. In this case, the designation of indigeneity is the basis for citizenship rights, entitlements, and access to opportunities. A substantial number of Ethiopians who are residing outside of their so-called home-states are confronting the deliberate denial of job opportunities, political appointments, and economic opportunities. As a result of the propagation of identity politics in ethnic-based regions, there is rising tension and hostility between the indigenes and non-indigenes.[83] The hostilities and violence against non-indigenes has taken an ethnic form. Non-indigenes are being singled out and attacked by organized groups. This, ultimately, strengthens ethnic solidarity, which undermines national integration. As elaborated below, the scale, intensity, and frequency of identity/ethnic conflicts increased in post-1991

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[83] A study conducted by the FDRE Identity and Boundary Commission (2021) across the country confirm that conflicts between Gumuz and highlanders in Benishangul-Gumuz; Aynuaa, Nuer and highlanders in Gambela Region, and indigenes and non-indigenes in other regions formed along ethnic lines.

Ethiopia following the adoption of ethnic-based federalism.[84] The conflicts range from so-called indigene versus indigene conflicts, to indigene versus non-indigene conflicts and are widespread across the country from the east to the west and from the north to the south. Evidence is abundant showing that many of the conflicts are identity-based and manipulated by political leaders, either from the incumbent or opposition parties, affecting not only the state-building process but also communal and peaceful co-existence.

4. Implications of Politicized Identity on Ethnic Coexistence: Evidence from the Regions

Despite the 1995 FDRE Constitution provisions for non-discrimination[85]—be it on the basis of race, nation, nationality or other social origin, color, sex, language, religion, political or other opinion, property, birth, or other status—several regional states constitutions, if not all, inserted provisions that discriminate against people on the basis of, *inter alia*, ethnic origin.

The preamble of the 2003 Revised Constitution of the Gambela People's National Regional State, for instance, begins with "We, the Anyuaa, Nuer, Majang, Opo and Omo nationalities (ethnic groups)," excluding other ethnic groups that constitute around a quarter of the region's population. It confirms that these ethnic groups, using their right to self-determination and with their full consent, ratified the constitution believing it to redress the historical, economic, and social injustices imposed by previous Ethiopian regimes. In this inscription, it is understandable that only the five ethnic groups are the owners of the region. They are entitled to

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[84] This does not mean that there were no conflicts in Ethiopia before the adoption of ethnic federalism. There were conflicts across the country but they were mainly related to either controlling natural resources or political power. However, after the adoption of ethnic federalism, conflicts took the form and shape of ethnic conflict as the manners to control resources and power came to be shaped by ethnic identity. Conflicts arise when political elites appeal to ethnic support either during election campaigns or whenever they feel themselves losing political legitimacy. As a result, those resource-related conflicts in the past changed into ethnic conflicts as the rules of the political game dictate the organizations and struggles to be along ethnic lines.

[85] 1995 FDRE Constitution, Article 25.

different opportunities offered by the region at the exclusion of other ethnic groups. An Amhara, Oromo, Tigray, Wolaita, Gurage, or any other ethnic group other than the five expressly mentioned "indigenous ethnic groups" is always to be considered an "outsider" or "settler,"[86] if not oppressor, in the region because the constitution already identified and accorded "indigenous ethnic group status" to the five ethnic groups. The political power is exclusively controlled by the indigenous ethnic groups.

The instrumentalization of identity is applied by organizing and mobilizing the so-called indigenous ethnic groups against so-called oppressors, highlanders/settlers, or non-indigenes. Although the five ethnic groups speak different languages, they are merged together as "indigenous and oppressed." This narrative is used as justification for "special entitlements" to political appointment, job opportunities, political representation, and other benefits offered by the regional state. These ethnic groups themselves compete with one another for control of the political powers in the region and the available natural resources such as land and pasture.[87] The Anyuaa, for example, claim to be the original inhabitants of the region while the Nuer are considered newcomers who emigrated from South Sudan during the Sudan Civil War.[88] However, when it comes to the struggle against outsiders, they come together to exclude the non-indigenous.

Contrary to the equality of citizens provided under the 1995 Constitution of Ethiopia, any political appointment and representation is exclusively provided for the five indigenous ethnic groups to the total exclusion of settlers/highlanders or non-indigenous groups. In this sense, the mobilization of ethnic groups is not

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[86] All ethnic groups or individuals other than the five indigenous ethnic groups are named differently, which means the same thing for the purposes of inclusion or exclusion in the political and economic opportunities of the region. The most commonly used terms include, among others: non-indigenous, outsiders, settlers, highlanders, non-titulars, newcomers, the red (referring to their light skin compared with the dark skin of the indigenous), non-natives, etc. In this paper, I use all of these terms interchangeably to mean the same thing with regard to special constitutional entitlement or exclusion.

[87] Dereje Feyissa, *Playing Different Games: The Paradox of Anywaa and Nuer Identification Strategies in the Gambela Region, Ethiopia* (2011).

[88] *Ibid.*

about the recognition of equal rights or the protection of individual rights but the ultimate goal is to control and own the state.[89] The ethnic criterion is simply set to disqualify other ethnic groups who do not share the same ethnic background or speak a similar language. Moreover, the sense of victimhood is heightened in this mobilization to instrumentalize their identities for the purpose of excluding so-called oppressors. The political parties organized along ethnic lines and select elites further stir up anger against outsiders/non-indigenes. Even worse, members of the ruling party in the region are accused of involving themselves in chasing the newcomers by supporting the local communities.

Similarly, the 2003 Revised Constitution of the Benishangul/Gumuz Regional State lists the "owners of the regional state." Article 2 of the Constitution, captioned "owner nationalities (ethnic groups) of the region" provides that "notwithstanding the presence of other ethnic groups, regional ownership right belongs to Berta, Gumuz, Shinasha, Mao and Komo." This dichotomization is often accompanied by preferential treatment in all aspects of publicly funded resources (education opportunities, job provision, political representation, linguistic rights, and the provision of other public services). The so-called settlers in the Benishangul/Gumuz Regional State, for example, account for about half of the Region's population. They were excluded from the political representation altogether until the issue was later solved by the House of Federation through its power of Constitutional adjudication or interpretation.[90]

The constitutions of other regional states which are considered relatively homogenous, are not better than the constitutions of heterogeneous states as regards dichotomizing individuals or groups into "insiders" and "outsiders" or

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[89] Mesay Kebede, *supra* note 16.

[90] This case was initiated by a group of persons from the Bambasi and Assosa woredas of the Benishangul-Gumuz Regional State who claimed to belong to and represent the Amhara, Oromo, Agew, and Tigray residents of the area. They contested the constitutionality of both a decision by the Election Board—banning them from running for election on grounds of not speaking the language of the electoral district—and Article 38 of Proclamation 111/95. In delivering its final verdict the HoF declared the alleged proclamation constitutional and the decision of the Board to exclude those candidates running for the federal parliament unconstitutional.

"indigenes and non-indigenes." They are designed in a way intended to create "nation-states" at the local level, in sharp contrast to the multiethnic and multicultural nature of the Ethiopian state and people. The 2002 Revised Constitution of Oromia National Regional State, for example, begins with "We, the Oromo People," in sharp contrast to the "We, the Nations, Nationalities and Peoples of Ethiopia" of the 1995 Ethiopian Constitution that recognizes and acknowledges diversity. The Constitution of Oromia recognizes only the Oromo people as "holders of sovereign power," ignoring, if not excluding, members of other ethnic groups and individuals residing in the region.[91]

Due to factors related to the constitutional exclusion of other ethnic groups and the mobilization of the Oromos against so-called oppressors, attacks and killings happened in several parts of the region. The Bedeno and Arbagugu killings, mostly targeting Amhara and Christian settlers in Oromia National Regional State at the beginning of the EPRDF era, was an early signal that the politicization of ethnicity was a "threat" to Ethiopia's future stability and peaceful coexistence among different ethnic groups.[92] It was believed that the Oromo Liberation Front (OLF), an ethnic-based faction that occupied some key positions during the Transitional Period (1991-1994) and left the stage in 1992 due to disagreement with the EPRDF on power sharing arrangements, has encouraged the local Oromo people to rise up against the Amharas. The Oromo People's Democratic Organization (OPDO), a member of the EPRDF coalition, later took it farther and manipulated ethnic differences to instigate ethnic conflicts directed against "newcomers" or "settlers." The Amhara settlers were often depicted as oppressors and even colonizers who came from the north to subjugate and plunder the resources of the Oromo people.[93] The federal government intervened very late with reluctance and little vigor to stop the mass killings. Several people were killed and evicted, leaving their homes and properties behind. Attacks and killings targeting other ethnic groups,

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[91] According to the 1994 Population and Housing Census of Ethiopia, about 15% of the population in the region belong to non-Oromo ethnic groups (9.1% Amhara, 1.3% Gurage, and 4.6% others) (CSA, 1994).

[92] Moresh Wogenie Amhara Organization, A Study Summary on the Crime of Ethnic Cleansing Perpetrated on The Amhara of Ethiopia, 1991-2016, (2016), https://moreshwogenie.org.

[93] Asafa Jalata, *Oromia & Ethiopia: State Formation and Ethnonational Conflict, 1868-1992* (1993).

particularly the Amharas in Oromia, continue to this day. In a more recent ethnic-based attack, scores of Amharas were killed in the East Wollega Zone of Oromia region. The government of Ethiopia blamed the OLF-Shene, while the OLF rebel group implicated the Ethiopian government for the killings.

Similarly, the 2002 Revised Constitution of Somali National Regional State confers sovereign power to the Somali people, excluding other ethnic groups or individuals belonging to non-Somali ethnic groups. It tries to create a Somali "nation-state" at the regional level, contradicting the multiethnic and multinational nature of the Ethiopia. The list goes on. Other constitutions of the regional states such as the SNNRS, though aiming to embrace the rights of all ethnic groups, designates the zonal & woreda units exclusively for the "owner ethnic groups" at the exclusion of others. In sum, the way regional constitutions are designed and operationalized violates the rights of ethnic groups or individuals who do not belong to the so-called indigenous ethnic groups. This dichotomization ultimately resulted in discriminatory treatment of Ethiopian citizens across regions and damaged social cohesion and the state-building project in the country.

Conclusion the Way Forward

As shown in this paper, identity politics or the politicization of identity in the current Ethiopian ethnic-based federal system is inimical to the state-building process and the societal integration necessary to develop one political community with shared vision and goals. Respect for one's cultural and linguistic rights is desirable and commendable. However, in the Ethiopian context, it goes beyond this and became a source of contestation and a basis for inclusion and exclusion in the Ethiopian body politic that has exacerbated conflicts that take ethnic form. Ethnicity and other primordial elements of differences are instrumentalized by political elites to gain material and psychological advantages over perceived or real "enemies." Ethnic differences are sentimentalized and manipulated by political elites to secure cheap political popularity and advantage at the expense of societal coexistence, political stability, and state-building. As long as ethnic-based regional

states and ethnic political parties continue in their present form and shape, Ethiopia's state-building efforts and the peaceful co-existence of ethnic groups will remain negatively affected.

The real choice here is not between a return to the imperial regime that envisaged a homogenized nation-state through assimilation or an authoritarian Derg-like government that denies the right to self-determination of ethnic groups. That has already brought devastating consequences to the country. The real question rather would be: How can we optimally use the benefits of a federal state arrangement to accommodate the demands and preferences of various ethnic groups without politicizing identity and endangering the unity of the country and its people? It can be done in different ways. Without necessarily imposing it by law, the government, in consultation with the general public and opposition parties, can discourage party organizations along ethnic lines. There is an attempt by the PP to make ideology and national outlook a basis for political party organizations. To make parties' ideology and organization transcend ethnic boundaries, the electoral system can be devised in such a way that it encourages them to be non-ethnic. The final option would be prohibiting ethnic parties by law.

As Ethiopia is recognized as a multiethnic state that requires ethnic federalism to guarantee autonomy and self-rule rights for all ethnic groups, all regional states and subnational units should follow its footsteps. Adopting a 'nation-state model' at regional levels is not only at odds with the overall principle of the Ethiopian ethnic federalism that entertains multinationalism and multiculturalism but also discriminates against ethnic groups or individuals who are different from the owner ethnic groups of the regional states. If Ethiopia is multiethnic, then by implication the constituent units/regional states that form the Ethiopian federation are multiethnic. Hence, regional states are required to respect the autonomy and self-rule rights of other ethnic groups or individuals residing in their jurisdictions.

As the way forward to make the present federal system workable for the benefit of the Ethiopian people as a whole, the implementation of the following recommendations is suggested:

- Amendments to some of the regional state constitutions and the federal constitution are required. Those provisions that encourage ethnic polarization and secession need to be amended.

- Design institutions that require the cooperation of ethnic political parties that aspire to occupy higher political positions. In this case, any political party aspiring to control power at the federal level needs to appeal to other ethnic groups for support in order to win election. The Nigerian case is a good example in that anyone aspiring to be president needs to secure the support of the majority of states and ethnic groups, implying that he/she has to work hard to earn the support of the majority of ethnic groups other than his/her own ethnic group. Shifting to a presidential system is one such institutional arrangement. Unlike the parliamentary system, where members may be elected by the various ethnic groups in their localities, the presidential election requires universal suffrage where all ethnic groups are directly involved in the election of the president. Universal suffrage and majority vote guarantees both group and individual rights and pressurizes the president to be a moderate candidate who can appeal to all ethnic groups in the country. Prohibition of political party organization along ethnic or other sectarian lines by law is the last option if the other measures do not work.

- Appropriate mechanisms should be put in place to control the activities of politicians and government officials who use ethnicity and other identity markers in their political campaigns to create hostilities and divisions among different communities.

- Regional state boundaries need to be redrawn so as not to align with ethnic or any other primordial division among people. In this regard, those larger ethnic groups and regional states should be redrawn to avoid the temptation of acting as a sovereign state and to minimize the tendencies of

secession. Put simply, reform is needed in the administrative boundaries of regional states/zones or woredas so as to respond to changing circumstances and depoliticize ethnic identity. Nigeria is an example where regional state boundaries are not necessarily intertwined with ethnic identity. Some bigger ethnic groups are divided into several regional states. Switzerland is another example in that Cantons' boundaries are not matched with linguistic identifications. The German-speaking community are divided into several cantons. The same is true for French-speaking Swiss community. An ongoing effort by the government to investigate problems related to boundary demarcation and the implementation of self-government rights at local levels via the Identity and Boundary Commission is a good start. The findings could serve as a steppingstone for boundary adjustments that would reduce politicized identity and ethnic conflicts associated with boundary related disputes.

Revising the Territorial Structure of the Ethiopian Federal System: A Good Idea?

Dr. Zemelak Ayele

Abstract

Yonatan Fessha, a leading scholar on comparative federalism in Africa, maintains that the "original sin" committed in the design of Ethiopian federal Constitution was that ethnicity was taken as the sole factor for demarcating the subnational unit of the federation. He argues that the former regional boundaries should have been used for this purpose. If that was the case, not only ethnic but also sub-ethnic identities would have been territorially accommodated. Moreover, the salience of ethnicity as a factor of political mobilization would have diminished. Yonatan's argument seems to have found traction since the rise to power of Abiy Ahmed. There is now a clamor for revisiting the Ethiopian federal design, the focus being on re-demarcating the boundaries of the subnational units. Many are calling for the division of the relatively large states, such as the Amhara, Oromia, and Somali states into smaller units without the titular communities in these regions losing their majority status in the new states. This begs the question of whether re-demarcating the boundaries of the states is workable and timely. This paper argues that, if implemented, the re-demarcation of the boundaries of the subnational units could be self-sustaining. However, it is extremely dangerous, and may lead to another round of civil war that the country might not survive. Any attempt to alter the boundaries of the states, if deemed at all necessary, should be undertaken carefully, after consideration of the danger that such a project may pose.

Introduction

Yonatan Fessha, a leading scholar on comparative federalism in Africa, maintains that "the original sin" that the framers of the Ethiopian Constitution committed, when designing the country's federal system, was that they took ethnicity as the

sole factor for demarcating the subnational unit of the federation.[1] He argues that they had another option: By breaking the large states, such as Oromia, Amhara, and Somali, they could have created smaller yet ethnically homogenous states. If that was the case, not only ethnic but also "historically and politically relevant" subethnic identities, such as provincial identities, would have been territorially accommodated. Moreover, the prospect of essentializing ethnic identity as the only relevant factor of political mobilization would have been avoided since such a territorial design would have led to intra-ethnic political competition. This, in turn, would have led to the federation experiencing "less strain as intra-ethnic divisions … are less emotionally charged and, as a result, more manageable than inter-ethnic division."[2] Yonatan's argument seems to have found traction among some political parties and actors. There is now a clamor for revisiting the federal design, the focus being on re-demarcating the boundaries of the subnational units. Many are calling for the division of the states I mentioned earlier into smaller units wherein the relevant communities in these regions retain their majority status. This begs the question whether re-demarcating the boundaries of the states is doable and timely. In this paper I argue that, if successfully implemented, the re-demarcation of the boundaries of the subnational units could be self-sustaining. However, it is extremely dangerous and may lead to another round of civil war that the federal republic might not survive. Any attempt to alter the boundaries of the states should be undertaken carefully, only after a consideration of the danger that such a venture poses.

The paper begins with a brief discussion of the political evolution that led to the establishment of ethnicity-based states followed by a discussion of why the principle that requires the formation of one state for an ethnic community found its way into the federal Constitution. The paper then turns to discuss the danger of attempting to redraw state boundaries by dividing some of the existing states.

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[1] Yonatan Fessha, *The Original Sin of Ethiopian Federalism*, 16.3 *Ethnopolitics*, 232 (2017).

[2] *Ibid.*

It finally raises the issue of whether redrawing the state boundaries is an impossible mission.

1. The Root of the Ethnic States

The idea of organizing the subnational units of the country along ethnic lines and providing territorial autonomy to ethnic communities was first debated during the time of the Ethiopian Student Movement (ESM). Even Wallelign Mekonnen in his famous essay on "the question of nationalities" implied that there were defined or definable territorial areas that each ethnic community inhabited and within which each community could enjoy political and cultural autonomy.[3] There were indeed disagreements within the ESM on how the "question of nationalities" should be handled. There was a general agreement in the movement that, at a minimum, territorial autonomy in the form of regional autonomy could be used for dealing with the ethnic question even though political groups, such as the Ethiopian People's Revolutionary Party (EPRP), went as far as recognizing the right of ethnic communities to secede from the country.[4]

In any case, the Derg took the first practical step of demarcating the administrative boundaries of the country with the explicit purpose of responding to the ethnic issue. In the 1980s, it established the Institute of Nationalities with mandates that included the studying the ethnic composition of the country and the development of a proposal on how the internal boundaries of the country could be redesigned to respond to the ethnic question.[5] Based on the proposal of the Institute, the Derg attempted to reorganize the provincial boundaries.[6] It created 25 administrative regions and a few ethnically defined so-called "autonomous regions"—such as Tigray, Assab, and Ogaden, which were supposed

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[3] Wallellign Mekonnen, "On the question of nationalities in Ethiopia," Marxists.org, (1969), https://www.marxists.org/history/erol/ethiopia/nationalities.pdf

[4] See for more on this Randi R. Balsvik, *Haile Sellassie's Students: The intellectual and social background to revolution, 1952-1974* (2005).

[5] Yonatan Fessha, *Ethnic diversity and federalism: Constitution making in South Africa and Ethiopia* 175 (2010).

[6] *Ibid.*

to enjoy extra autonomy compared to the other provinces.[7] The Derg did this with the intent to appease the ethnonationalist and secessionist insurgencies, such as the Tigray People's Liberation Front (TPLF) and Eritrean People's Liberation Movement (EPLF), which were at the time succeeding in their military campaign against the center.[8] It was not, however, successful in this regard, because the creation of administrative units along ethnic lines was not accompanied by the devolution of real power to the newly created ethnicity-based provinces. The autonomous provinces had identical powers and competencies to the ordinary provinces.[9]

The most decisive measure toward restructuring the country's subnational units along ethnic lines was taken after 1991 during the Transitional Period (1991-1995). The Transitional Period Charter (TPC) of 1991 laid the groundwork for ethnic federalism, which principally aimed at responding to the ethnic question. Not only did the TPC recognize the right to self-determination for "each nation, nationality and people" of Ethiopia, but it also made this right the "governing political principle" of the country.[10] This principle was to find expression in the right of each ethnic community to administer its own affairs within the territory it inhabited, entrenching the logic of ethnicity-based states.[11] The TPC further provided that the boundaries of regional and sub-regional units would be demarcated based on the geographical settlement patterns of the ethnic communities of the country.[12] The Representative Council (the legislative organ of the Transitional Government of Ethiopia or TGE) also issued Proclamation No 7 (1992) which, mainly based on the studies of the Institute of Nationalities,

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[7] The administrative regions were North Gondar, South Gondar, North Wollo, South Wollo, East Gojam, West Gojam, Metekel, Assossa, Wollega, North Showa, Addis Ababa, West Showa, South Showa, West Hararge, East Hararge, Arsi, Bale, Gambela, Illubabor, Keffa, Gamu Gofa, Sidamo, Omo, and Borena. See art 2, Negarit Gazeta of the People's Democratic Republic of Ethiopia: A Proclamation to establish autonomous and administrative regions of the People's Democratic Republic of Ethiopia Proclamation No. 14 (1987).

[8] Edmond Keller, *Remaking the Ethiopian State, in* The Disintegration and restoration of legitimate authority 125 (W. Zartman ed, 1995), 125.

[9] See Art 4(3), Proclamation 14 (1987).

[10] Preamble, Transitional Period Charter of Ethiopia 1 (1991).

[11] Art 2(b).

[12] Art 13.

identified 63 territorially concentrated ethnic communities, 47 of which could automatically establish their own governments, starting from the woreda level.[13] Hence, woredas, most of whose residents belonged to a specific ethnic community, were brought together to form a subregional or regional self-governing area of the ethnic community.[14] In this manner, 13 regions were established based on ethnic criteria. Addis Ababa, the 14th region, was the exception to this logic. Under Proclamation 7 (1992) smaller ethnic communities could by agreement join hands to create a larger unit.[15] Accordingly, five of the 13 ethnic regions "opted" to unite and create the region now known as the Southern Nations, Nationalities, and Peoples' Region. The other 17 ethnic communities, which were found to be too small to exercise self-governance even at the woreda level, were guaranteed fair representation in woreda councils.

Nothing major was introduced in terms of re-structuring the sub-national boundaries of Ethiopia after the adoption of the 1995 Constitution. The Constitution simply entrenched the ethnic regions which were created during the Transitional Period. There are three important points that need to be stressed here. First, the Constitution does not contain a list of ethnic communities of the country. It simply provides a broad definition of what constitutes an ethnic community.[16] This implies that Ethiopia does not have a definite number of ethnic communities. The Constitution keeps the door open, as with the Silte, for new ethnic communities to be recognized. Several groups of people have also petitioned the House of Federations (HoF), including the Wollene, the Kebena, the Qimant, the Mareqo, and the like, demanding to be recognized as distinct ethnic communities even after the formation of the federation. Second,

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[13] Art 3(2 and 3), Negarit Gazeta of the Ethiopian Transitional Government: A Proclamation to provide for the establishment of national regional self-governments No. 7 (1992).

[14] Art 4(2). See also Kinfe Abraham, *Ethiopia from bullets to the ballot box: The bumpy road to democracy and the political economy of transformation* 26 (1994).

[15] Art 3(2)(b).

[16] A "Nation, Nationality or People" for the purpose of this Constitution, is a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory." Art 39(5), Constitution of the Federal Democratic Republic of Ethiopia (1995).

the Constitution initially recognized nine states, implying that territorial autonomy was to be exercised not only through the formation of a state but also with the establishment of self-government at kebele, woreda, and zone level.[17] In any case, a community that seeks to establish its own state could do so by seceding from the state within which it is found. There are no economic, demographic, or other criteria that it needs to fulfil before demanding for state of its own, so long it is recognized as a distinct nation, nationality and people (NNP). Two additional states (the Sidama and the South-West) were recently added to the list of states. Based on this logic, Ethiopia may have as many states as the number of ethnic communities that are and could be recognized.

Finally, the right to self-determination and, therefore, territorial autonomy belongs to an ethnic community in its entirety, not to a section of it. Implicit in this is that an ethnic community can exercise its right to self-determination within a single territorial unit.

2. Why the One-Ethnic-Community-One-State Formula?

What were the reasons for adopting the one-ethnic-community-one-state logic? The argument in favor of recognizing the right of each ethnic community to establish its own state (at least in principle) was based on the notion of the equality of ethnic communities, regardless of the differences among them in population, size, territorial area they occupy, and economic status.[18] Taking the latter factors as conditions for the formation of a state would have gone against this notion.

Besides, during the Peace and Democracy Conference of June 1991, some of the ethnicity-based political parties made clear that the division of the ethnic

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[17] Zemelak Ayele and Yonatan Fessha, *The place and status of local government in federal states: The case of Ethiopia*, 58.4 African Today 89 (2012).

[18] The Constitution emphasizes the notion of equality among the ethnic communities of the country in its different parts. The second paragraph of the preamble of the Constitution mentions equality among both individuals and groups. Article 3(2) provides that the flag of the federation should symbolize the equality of the ethnic communities of the country. As per article 62(4), the HoF has the responsibility of promoting the equality of the ethnic communities.

communities, whose cause they supposedly champion, into different administrative units was completely unacceptable. The Oromo Liberation Front (OLF) was especially explicit that it would not accept the division of the Oromo people into different subnational units, equating this to the divide-and-rule policies of previous regimes.

The formation of a single state for each ethnic community was also underpinned by the notion of vanguardism that the TPLF (Ethiopian People's Revolutionary Democratic Front—EPRDF) espoused. Vanguardism is a Marxist-Leninist notion that is often linked to the exclusive right to exist of a party or a similar organization which is established by the most "class conscious" members of the working class to lead the latter in its "revolutionary struggle."[19] Political contestations based on the notion of vanguardism in Ethiopia can be traced back to the 1960s when Marxism-Leninism was the dominant ideology in the ESM.[20] Some parties that sprang from this movement, including EPRP and All-Ethiopia Socialist Movement (AESM), better known by its native Amharic acronym **መኢሶን** (*Me'ison*), saw themselves as a national vanguard party and sought to eliminate their opponents. The Workers' Party of Ethiopia (WPE) was later constitutionally recognized as the only party with the right to exist in the country. The ethnicity-based rebel groups, especially the TPLF, espoused Marxist-Leninist political theories to fit their own purposes, and declared themselves vanguard parties of the ethnic groups they claimed to represent.[21] Within the context of the country's ethnic federal system, EPRDF's vanguardist view was that every ethnic community should have a single vanguard party and that the ethnic community needs no other party to champion its cause.[22] At the regional level, therefore, each

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[19] Socialist Labor Party of America (SLP), "After the Revolution: Who rules? A socialist critique of the 'Marxist-Leninist left,'" SLP.org, (January 1977), http://.www.slp.org/pdf/others/after_rev.pdf

[20] Bahru Zewdu, T*he Quest for Socialist Utopia: The Ethiopian Student Movement c.1960–1974* (2014).

[21] For more on this see **ገብሩ አሥራት፡ ሉዓላዊነት እና ዴሞክራሲ በኢትዮጵያ** /Gebru Asrat, *lu'ālāwinate 'enā démokerāsi ba 'iteyopeyā*/ (Gebru Asrat, *Sovereignty and Democracy in Ethiopia*) Addis Ababa (2008 Ethiopian Calendar) (2016).

[22] EPRDF, "Program: Introduction" www.slideshare.net/Bereh11/eprdf-program (October 19, 2013). (Last accessed 6 May 2022); Zemelak Ayele, *EPRDF's "menu of institutional manipulations" and the 2015 regional elections*, 28.3 Regional and Federal Studies 275 (2018).

of EPRDF's constituent and ally parties was expected to play the role of a vanguard party with respect to the relevant ethnic community. For each ethnic party to effectively play the role of a vanguard party, the ethnic community of which the party is supposed to be a vanguard must be within a single territorial unit.

3. The Dangers of Breaking up the Regional States

Much has been said already about the dangers of creating subnational units based on the one-ethnic-community-one-state logic, some of which turned out to be true.[23] My focus rather is on the danger of the undoing of the already entrenched ethnicity-based subnational boundaries. Even Yonatan, who argues that the issue of remapping the boundaries of the subnational units should be on the table for political negotiation, cautions that such an endeavor may have various perilous consequences that those who enthusiastically espouse his arguments choose to ignore. I maintain there are five major reasons why the remapping of the internal boundaries of the country can be risky.

Indeed, in the early 1990s, the state boundaries could have been demarcated in such a way that an ethnic community becomes the majority in multiple states despite some challenges from certain political forces which at the time could have been overcome. Back then, the current states were non-existent and their maps and flags were largely unknown. However, after three decades of ethnic federalism, there are many now who identify themselves with the states. Members of the ethnic communities now know the maps and flags of the states and consider the latter as their own. Students are taught about the states' history and geography in schools. To undo the states now and create new ones is less likely to settle well among the ordinary members of the relevant ethnic community, let alone the political actors.

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[23] See on this Yonatan, *supra* note 5; Alemante Gebre-Sellasie, *Ethnic federalism: Its promise and pitfalls for Africa*, 28 Yale Journal of International Law 51 (2003).

There is what seems to be an almost irreconcilable difference in the institutional choices of different political groups for responding to the ethnic issue. Some are for an institutional design that is geared towards integration, while others are in favor of the accommodationist approach.[24] Those in the first group support Yonatan's proposal while those in the latter group oppose it. The remapping of the internal boundaries of the federation cannot be undertaken without angering those who are in favor of the accommodationist approach of managing the ethnic diversity of the Ethiopian people.

There are many who have political and economic stake in the current arrangement. There are political appointees, civil servants, and businessmen who have economic interests and would resist any attempt to divide the existing states—especially those which are under consideration.

The political ground is not fertile for the implementation of the policy under consideration. Major political forces in Oromia (OLF and Oromo Federalist Congress-OFC, and even the Prosperity Party-Oromia wing) are not even willing to entertain the idea of breaking Oromia into smaller states. I am not aware of a single political party or political group, with the prefix "Oromo" or "Somali," that supports the idea of breaking these states into smaller units. Given this reality, any suggestion to remap the internal boundaries of the country is likely to face immense resistance and eventually lead to violence

It is almost taken for granted that the restructuring of the federal system along the lines discussed above will be enthusiastically supported by the Amhara people, political parties, and elites. I think this ignores the fact that there is a growing Amhara nationalism. Besides, there is a realization among many political actors of the Amhara that there is a need to maintain the state as is, if not territorially expand it, to overcome the political ascendency of the Oromo. Given these facts, Amhara's support for the redrawing of the internal boundaries of the regions that

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[24] Assefa Fiseha, "Federalism, devolution and territorially-based cleavages in Africa: Does institutional design matter?" in Charles Fombad, Assefa Fiseha and Nico Steytler (eds), *Contemporary Governance Challenges in the Horn of Africa* (2022).

results in the division of the Amhara state into its historical regions can no longer be taken for granted. I think the Amhara will not agree, at least, with their state being the first where the practicability of this policy is tested.

4. Remapping the Internal Boundaries: Mission Impossible?

There are two ways that remapping the internal boundaries of the states could be effected: through a political compromise that would eventually lead to a constitutional revision or through a top-down imposition of the project.

I am not aware of any case where an ethnically organized subregional unit was broken into smaller units as a result of political compromise. In countries such as Nigeria and Kenya (when *Majimboism* was abolished) ethnicity-based subnational units were divided into smaller units by the decisions of the central governments.[25] The Nigerian states were divided several times following military coups. In Ethiopia, considering the lack of a culture of political compromise, the ideological rigidity of the political actors in the country, and the lack of trust among them, I cannot imagine a political compromise resulting in the remapping of the internal boundaries of the country. A top-down decision to break up the larger regions, if it can withstand the initial onslaught of resistance, protest, and even violence, could indeed be self-sustaining for the same reasons that the current arrangement has been self-sustaining: new identities will be formed and a new group of people with an economic and political stake in the new arrangement will emerge to defend it. This has been the case everywhere subnational boundaries are altered by the decision of those holding power at the national level. However, this is too risky. Given the Ethiopian historical and political context, any attempt to do so may be catastrophic.

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[25] See Rotimi Suberu, *Nigeria's permanent constitutional transition: Military rule, civilian instability and "true federalism in a deeply divided society,"* Forum of Federations: Occasional Paper Series Number 34 (2019); Rotimi Suberu, *Federalism in Africa: The Nigerian experience in comparative perspectives*, 8.1 Ethnopolitics 67 (2009); Conrad M. Bosire, "Devolution for development, conflict resolution, and limiting central power: an analysis of the constitution of Kenya" 102 (PhD Thesis, University of the Western Cape 2013).

DISCUSSIONS

Dr. Christophe Van de Beken — Discussant

One important strength of Zemelak's paper is the emphasis on the historical and political background of the ethno-territorial federal system that is now in place, which Yonatan Tesfaye rightly referred to as "the original sin." Of course, the issue with the Constitution also has to do with the process of its adoption, which was not sufficiently inclusive, as it was dominated by one specific political party, which was a coalition of ethnicity-based parties. This also explains the institutional choices present in the Constitution. The lack of inclusiveness, and to some extent the flawed process of constitutional drafting and adoption, has from the very beginning affected the legitimacy of the Constitution. From the very beginning it has been contested, and this has contributed to the lack of constitutionalism we have observed. Therefore, when we now discuss a potential amendment of this Constitution, we should not repeat the same mistake. The process is very important; if we want to avoid contestations, we need to take due care and follow a proper process of constitutional amendment that is participatory—not only through lip service to participation, but effective participation as well as that is broadly inclusive. Having a proper constitutional amendment process would lead to a more legitimate constitution and would contribute to a stronger constitutionalism in the country. If and when the amendment takes place, it should not be a rushed process.

Additionally, I agree that restructuring the states along territorial lines is important. But even if you do that, the issue of accommodation and integration would still be there; the issues of ethnic pluralism, ethnic minorities, ethnic nationalism at the regional level would still be there. You may weaken ethnic nationalism to some extent, in a way that it may no longer threaten the existence of the state, but the issue of diversity and the need for accommodation will be there. So, I am not sure that the state restructuring would make much difference.

My last point is on the issue of participation; I agree with the Zemelak that it would be difficult to do restructuring of the subnational units of the Ethiopian Federation. On the other hand, we should not take that for granted; there may be an attachment to these states as this arrangement has existed for nearly 30 years. We cannot be sure, however; so we should also have some kind of public opinion poll or survey, because at this point we are only guessing that there is an attachment while we do not really know if that is the case. The constitutional amendment process should not be purely elitist.

Dr. Zelalem M. Teferra

You noted that it is possible to restructure the current federal arrangement, but it could be a risky endeavor. Why do you think that it is risky to introduce some nuances to the current system? We should also consider other options like multilingualism or multiculturalism, which I believe would be even more useful than restructuring the federal arrangement.

Dr. Sisay Alamahu

Zemelak, you proposed two possible formal solutions regarding the restructuring of regions: 1) political compromise and 2) a top-down approach. Is it possible to consider something in between the two approaches? For example, can we start with a practice whereby power is more devolved to subnational units?

Dr. Mohammed Dejen

Revising the territorial structure of the Ethiopian federal system may be a good idea, but the issue is how we should go about it. I think any restructuring exercise should not be imposed; the experiences of other countries may not be applicable to the situation in our country. For example, the restructuring in Nigeria took place during time of coup d'état. It might have been easier for EPRDF to attempt restructuring, but not as easy for Prosperity Party (PP). This is because PP is accused of unitarist tendencies, so it is making an attempt at restructuring will be suspicious and contestable. Therefore, the best way to go about it is through

discussions and dialogue, and ultimately the people should be allowed to choose so that we can avoid making the same mistake that was made by TPLF. There is a general perception that the Amhara may support the restructuring of the states, but this may also not be the case since now there is growing Amhara nationalism.

Dr. Abadir M. Ibrahim

I think it needs to be clearly noted that we must be wary of the imposition of constitutional restructuring by any government not least because it is a non-democratic one. Constitution-making should follow a big-tent participatory approach. Making the process inclusive is important on its own terms, independent of whatever the outcomes of constitutional reform are. It is also important, of course, to make sure a constitutional reform process does not end in creating socially and politically significant "losers" thereby leaving behind the seeds of future instability. Anyone who ignores this point should know they are playing with fire; this lesson should have been learned from the recent past. Unfortunately, it is not just the regime, it is all of us who will face the consequences of taking constitution-making lightly. The negative impacts of taking the constitution-making process lightly will come to bear on the legitimacy of the constitution and eventually the stability of the state—it is a question of sooner or later, and not if. I wanted to raise this point because I have been hearing that the government is planning to go ahead with constitutional reform on its own by sidelining its opponents as decried elites and going to the public in a "direct democracy" type of approach. We have all become familiar with this type of discourse and practice over the last decades. Anyone who may be asked to advise this process should underline this point—you should get the process right—before talking about the merits of specific reform ideas.

Ethiopia's Contested Federalism: How to Deal with Cleavages?

Prof. Assefa Fiseha

Abstract

Ethiopia introduced a federal system in 1995 as a means to empower marginalized, politically mobilized ethnonational cleavages. Yet, despite the rhetoric of accommodation, the federation remained centralized. With the coming to power of a new political elite in 2018 there was much hope for reform and genuine federalism. To the contrary, what transpired is a more centralized federalism both in its ideological narrative and its engagement of the army during emergencies, triggering a violent reaction from ethnonational cleavages, including war. This article examines whether it is possible to ensure stability, peace, and social cohesion in countries with deep societal divisions as in Ethiopia, where identity-based mobilization prevails over other forms of mobilization, and explores the institutional options. In particular, it addresses the type of institutional designs that fit countries with deeply mobilized cleavages. It interrogates the integrationist presidential and the accommodationist consociational parliamentary federations and links them with the Ethiopian context, proposing ways out.

Introduction and Background

Whether it is possible to ensure democracy, stability, peace, and social cohesion in countries with deep divisions and, if so, through what institutional arrangements is one of the central political issues of our time.[1] This is

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[1] Alfred Stepan, Juan Linz, & Yogendra Yadiv, *Crafting State Nations: India and Other Multinational Democracies* (2011); Sujit Choudhry, "Bridging Comparative Constitutional Law: Constitutional Design in Divided Societies" in Sujit Choudhry (ed.), *Constitutional Design in Divided Societies* 4 (2008).

particularly the case in many diverse countries in Africa where nation-building is linked with coercive and arbitrary processes by which the same communities are subdivided into different countries by artificial colonial borders, with ethnonational- and regionally based cleavages contesting such borders.[2]

In some African countries with deep cleavages, the state continues to suffer from structural problems where the central government is often accused of centralization of power, promoting narrow and factional interests, corruption, abuse of rights and marginalization of the bulk of society. Thus, claims for accommodation, ethnic conflicts, civil war, threats of secession, and state fragmentation remain major challenges. Some postcolonial African countries attempted to address these challenges by resorting to some form of federation and autonomy, but with the exception of Nigeria, all such efforts collapsed within a decade of their establishment.[3] The failure of the federal experiment resulted in centralized unitary governments, imperial presidents and one-party rule.[4] The respective federations failed because they were confronted by strong one-man leadership that took the perspective that federalism would lead to state fragmentation and was thus opposed to their own vision of centralized nation building.[5] Many political leaders across a diverse continent thought federalism in the context of artificially drawn borders might lead to polarization and may in the end put territorial integrity at stake.[6]

After the end of the Cold War, however, there was resurgence in the use of federalism and devolution in Africa. For some it became a means to

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[2] For the limitations of the nation state, see Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity* 61-63 (2007).

[3] Thomas Franck, "Why Federations Fail?" in Thomas Franck (ed.), *Why Federations Fail: An Inquiry into the Requisites for Successful Federalism* 167 (1968).

[4] Ursula Hicks, *Federalism: Failure and Success, a Comparative Study* 4 (1978).

[5] Daniel Elazar, *Exploring Federalism* 240-44 (1987), 240-244; Hicks, *supra* note 4, 171-196.

[6] Goran Hyden, "Electoral Systems and Political Reform," in *Constitutionalism: Reflections and Recommendations*, *Proceedings of the Symposium on the Making of the New Ethiopian Constitution* 9 (1993).

"domesticate the Leviathan"[7] by transferring power from the all-powerful center to subunits, diffusing power into many centers. In others, federalism and devolution go beyond diffusing power and aim to manage territorially based and politically-mobilized cleavages. Four main African countries (Nigeria, Ethiopia, South Africa, and Kenya) have used federalism and devolution to achieve either or both of the above objectives.

Ethiopia is one of the most diverse countries in the Horn of Africa with an estimated 110 million people and many politically mobilized ethnonational groups. Although it had centuries of experience with "devolved autocracy"[8] it remained a centralized authoritarian state for the most part of the last century and went through a civil war that came to an end with the defeat of the military junta in 1991. Ethiopia went through a transitional process (1991-1995) dominated by the Ethiopian People's Revolutionary Democratic Front (EPRDF 1991-2018), a coalition of four ethnonationally based parties,[9] and adopted a federal system, with the regional states mainly based on language. The principal objective of the federal system is ensuring self-government for ethnonational groups in response to the "nationalities question" as framed by the Ethiopian Student Movement in the 1970s.[10] Self-government has previously been a victim of democratic centralism (as the centralized party controls all affairs of the state-making self-government farce) and a developmental state where the federal government focused more on economic growth, pushing democracy and self-government to the sidelines.[11]

The federal system under EPRDF operated under three major unwritten frameworks: a big man (Meles Zenawi, nicknamed by Clapham "the

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[7] Nico Steytler, *Domesticate the Leviathan: Constitutionalism and Federalism in Africa* 24.2 African Journal of International and Comparative Law 272 (2016).

[8] Christopher Clapham, *The Ethiopian Experience of Devolved Government* 1.1 Ethiopian Journal of Federal Studies 18 (2013).

[9] The members of the coalition include the Tigray People Liberation Front (TPLF), Amhara National Democratic Movement (ANDM, later renamed Amhara Democratic Party, or ADP), Oromo People Democratic Organization (OPDO), the Southern Ethiopia People's Democratic Movement (SEPDM).

[10] Bahru Zewde, *The Quest for Socialist Utopia: The Ethiopian Student Movement 1960–1974* 218 (2014).

[11] Lovise Aalen, *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000* (2002).

philosopher-king of the EPRDF"),[12] democratic centralism (his main tool), and the vanguard party. Frustration with centralization and an increased sense of alienation led to violent protests for three years (2015-2018). particularly in the Oromia and Amhara regions, forcing former Prime Minister Hailemariam Desalegn from the Southern Coalition of the EPRDF to resign and precipitating the coming to power of Abiy Ahmed from the Oromo People's Democratic Organization (later renamed as Oromo Democratic Party or ODP). To its credit, the new government responded to demands from the South. Two new states, The Sidama and South West Ethiopia People's State, emerged. The Sidama's quest for self-government is an age-old demand that was suppressed for decades. The southwest is too far to be managed from Hawassa, the Southern Nations Nationalities Regional state's capital. There was thus hope that the new leadership that came to power in 2018 would reverse the centralization as Oromia, the regional state where Abiy comes from, called for end to federal intervention and centralization.[13] Yet, centralization and authoritarianism have continued in a new form and, as will be shown later (in section two), the federation has informally turned into a decentralized unitary system, triggering sub-state nationalism to a new level and leading to a high risk of falling apart.[14]

Despite a promising start, the Prosperity Party's (PP, the ruling party that succeeded the EPRDF following the withdrawal of the Tigray People's Liberation Front or TPLF) increasingly authoritarian and centralizing policy emerged, threatening self-government. Although Ethiopia has been at war since the coming to power of the new leadership in 2018, with increasing interethnic and interregional conflicts, the war in Tigray remains a major factor behind Ethiopia's current instability.[15]

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[12] See Alex De Waal, *The Real Politics of the Horn of Africa: Money, War and the Business of Power* 163 (2015). Christopher Clapham, *The Horn of Africa: State Formation and Decay* 69 (2017).

[13] Rene Lefort & William Davison, "Federalist façade for centralist front," Ethiopia Insight, (August 18, 2019), https://www.ethiopia-insight.com/2019/08/18/federalist-facade-for-centralist-front/

[14] See Nic Cheeseman & Yohannes Woldemariam, Can Ethiopia Survive? Foreign Affairs, (November 5, 2021), https://www.foreignaffairs.com/articles/ethiopia/2021-11-05/can-ethiopia-survive

[15] The war has now expanded to other regional states such as Amhara and Afar. Tigray is found in the northern part of Ethiopia and has an estimated population of seven million.

The claim on the part of the federal government is that the TPLF "attacked the Ethiopian army base (the Northern Command) that was based in Tigray" on November 4, 2020 and triggered in response what it calls "law enforcement operation"[16] to bring the culprits to justice. However, it is now clear that the TPLF and the Federal government have been at war since Abiy assumed power, and that what happened on November 4, 2020 is the culmination of what was already happening since 2018.[17] At the core of this is an ideological crisis within EPRDF, a power struggle among the coalition members and a lack of competent leadership within the ruling party. The EPRDF was dissolved prematurely and rebranded as the PP and turned the member coalitions into *branches*, centralizing the party structure without enough consultation and consensus. The TPLF saw that as a step towards centralization that would lead to dissolving the federal system and declined to join as the process liquidated the autonomous position of the members of the coalition. The federal government continued to target the TPLF, accusing it of human right violations while the TPLF responded by characterizing the PP as a centrist regime. As illustrated later, there is a clash between state-led nationalism and its new narrative of nation-building that considers the EPRDF (1991-2018) era as a disruption to both the centralized nation-building project that commenced in the early 20th century on one hand,[18]

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[16] Simon Marks, "Ethiopia Declares Emergency After Attack on Federal Military Base," VOA News, (November 4 2020), https://www.voanews.com/africa/ethiopia-declares-emergency-after-attack-federal-military-base; for a detailed account of the different narratives about the start of the war see Antony Shaw, "Ethiopia at War" in *The Tigray War and Regional Implications* 16 (Vol. 1, 2021), https://asenatv.com/wp-content/uploads/2021/07/The-Tigray-War-and-Regional-Implications-Volume-1.pdf; See also African Union press release, (2021), https://inquiry.achpr.org/elementor-536/; Declan Walsh, *From Nobel Hero to Driver of War, Ethiopia's Leader Faces Voters,* N.Y. Times, June 21, 2021, https://www.nytimes.com/2021/06/21/world/africa/Ethiopia-election-Abiy-Ahmed.html. The Prime Minster himself appeared on TV in June 2021 and said, "our goal was not to liberate Tigray. As a result of the war we have made Mekelle (Tigray's capital) equal with Beshasha (a small village where Abiy came from). Tigray is not anymore center of gravity.' He made it clear that it was not a law enforcement but a war to decimate Tigray. See his speech on July 1, 2021, https://www.youtube.com/watch?v=sJPw2EwNhx4; for the TPLF's version see Interview with Getachew Reda, *Reyot,* February 6, 2022, https://www.youtube.com/watch?v=mn1PGo8_MNk

[17] Even Abiy Ahmed, who initially stated it was a "law enforcement" operation in November 2020 has, in his latest remarks, made this point clear. See his speech, June 30, 2021, https://www.youtube.com/watch?v=sJPw2EwNhx4.

[18] Merera Gudina, *Ethiopia: Competing Ethnic Nationalism and the Quest for Democracy, 1960-2000* (2003).

and the Tigray and Oromo-based ethnonationalism on the other, demanding genuine self-government or loose confederation. The political elite's visions for the country thus significantly vary and in the absence of political settlement, this leads to conflict. The nature of the political cleavage in Ethiopia, as elaborated in the next section, remains very distinct.

This article discusses the distinct nature of the political cleavages in Ethiopia and shows that an integrationist presidential federation, a choice the centralist elite seem to be pushing,[19] is problematic, and considers the consociational parliamentary federation to be more relevant. The latter certainly is not risk-free, but there is little that one can do when one faces deeply entrenched cleavages, as is the case in Ethiopia. A key entry point is an understanding of the nature of the cleavage that has continued to challenge the nation-state and occupied political and expert attention to a new form of accommodation.[20] Thus, the first section provides a brief account of the nature of cleavages. The second section demonstrates the rise of a new authoritarian elite in Ethiopia which partly explains the widespread discontent and the raging civil war in parts of the country. The following two sections explain the integration and accommodation features as developed in the comparative institutional design literature. The final section draws some comparative conclusions.

1. Territorially Based Cleavages

Politically mobilized cleavages continue to threaten the nation state. Following the end of the Cold War, such cleavages caused what Arend Lijphart dubs a "wave of ethnic conflicts,"[21] instead of the promised "third wave of

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[19] See Tom Gardner, "Abiy Ahmed and the Struggle to Keep Ethiopia Together", The Africa Report, (October 11 2019), https://www.theafricareport.com/18565/abiy-ahmed-and-the-struggle-to-keep-ethiopia-together/?amp=1 where he states "Abiy would like to introduce an elected Presidency."

[20] Richard Simeon, "Managing Conflicts of Diversity" in Ronald Watts & Rupak Chattopadhyay (eds.), *Building on and Accommodating Diversities* 54-62 (2008).

[21] Arend Lijpart, "The Wave of Power Sharing Democracy" in Andrew Reynolds (ed.), *The Architecture of Democracy: Constitutional Design, Conflict Management and Democracy* 37 (2002).

democracy."[22] Mobilized ethnonational minorities are "regionally concentrated ethnic groups who once enjoyed or aim to enjoy political autonomy and have become part of states in which they constitute an ethnic minority through conquest, annexation, colonization or incorporation during the coercive process of nation building."[23] They mobilize politically around assertions of national identity and self-determination. The goal of such mobilization is to recover the extensive self-government that they claim to have enjoyed historically or they aspire to have now. The degree of self-government they seek ranges from autonomy, to national self-government, to independent statehood. Countries that have politically mobilized ethnonational groups cannot assume to have stable territory. The demands of such groups are framed and entrenched in relation to a particular *territory* and the very unity and territorial integrity of the state is put to the test.[24]

Ethnonationally based mobilization is a very potent force that, if not managed carefully, can result in fragmentation. It has resulted in the formation of some 27 states that have joined the United Nations following the end of the Cold War.[25] In the 1960s and 70s, nearly all major schools of thought (liberalism, socialism, globalization, modernization), regardless of their different viewpoints predicted that ethnonational minorities would wither away through liberalism, socialism, "melting pots," and assimilation. Some have called this the "post national illusion"[26] and counselled actors to properly understand this force and design appropriate institutions and policies to manage it. Territorially based and politically-mobilized cleavages continue to challenge the process of nation building both in the developed (Canada, Spain, Belgium, United Kingdom) and the developing world. Within Africa, Nigeria, Ethiopia, South Africa, and Kenya, despite differences in the degree of mobilization, all continue to face challenges related to group-based cleavages.

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[22] Samuel Huntington, *The Third Wave: Democratization in the Late 20th Century* (1991).

[23] Ted Robert Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflict* 18-20 (1993).

[24] George Anderson and Sujit Choudhry, "Territorial Cleavages and Constitutional Transitions: Political Mobilization, Constitution Making Processes and Constitutional Design" in Anderson and Choudhry (eds.), *Territory and Power in Constitutional Transitions* 374 (2019).

[25] Alfred Stepan, Juan Linz and Yogendra Yadiv, *supra* note 1, 9, 14.

[26] Ghia Nordia, 'The End of the Postnational Illusion,' 28.2 Journal of Democracy 5 (2017).

According to Horowitz, a "deeply divided society" refers to cases in which identity-based politics gains a high degree of salience, exceeding that accorded to alternative forms of political mobilization such as ideology, class, and gender, and the relationship between groups is affected by deep levels of mistrust and antagonism, making it less cooperative.[27] As argued by Sujit Choudhry, "a divided society is not merely a society which is ethnically, linguistically, religiously or culturally diverse … it is hard to imagine a state today that is not diverse."[28] What makes a society divided is when the differences are politically salient and an identity-based distinct group uses them as a basis for political mobilization. As such, identity becomes the *prime source* of political mobilization around which political claims for recognition, resource control, accommodation, and self-government are framed, political parties are formed, elections are contested and governments are composed.[29] These forces affect the process of constitution making and constitutional design. A distinct identity-based political mobilization demands for a more autonomous self-government, while less mobilized groups could be managed through integration and other, softer options.[30]

As a result of cleavage, Ethiopia continues to face the threat of fragmentation. Ethiopia lost Eritrea and the threat of secession is still a problem as it is a goal harbored by many national liberation movements such as the Oromo, the Ogaden/Somali, and the Tigray, among others.[31] Some ten ethnonational groups that used to administer themselves at local government level in the South have, following the winds of change in 2018 demanded constituent unit status and only two have succeeded. The war between the federal government and Tigray, although it has multiple causes, is very much related to Tigray's age-old demand

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[27] See Donald Horowitz, "Constitutional Design: Proposals, Process," in Andrew Reynolds (ed.), *The Architecture of Democracy: Constitutional Design, Conflict Management and Democracy* 15 (2002).

[28] Choudhry *supra* note 1, 5.

[29] Anderson and Choudhry*, supra* note 24, 374.

[30] Ronald Watts, *Comparing Federal Systems* 84 (3rd ed., 2008).

[31] Tesfa Bihonegn, "Multinational Federalism and Secessionism in Ethiopia" (PhD Thesis, Edith Cowan University, Perth, WA, Australia 2020).

for genuine self-government[32] being triggered by the rise of a new authoritarian centrist elite. Ethnonational groups are thus demanding more, not less, even after two and half decades of federal practice.

Nigeria's splits—between north (Hausa Fulani, predominantly Muslim) and south (the oil-rich Niger Delta), west (Yoruba) and east (Igbo), and Muslim and Christian—remain visible, particularly during presidential elections. The split is kept in delicate balance based on an unwritten convention that guides presidential elections to commonly rotate the office of the president between the north and south.[33] Nigeria faced a secession threat from Biafra towards the end of the 1960s and Igbo nationalism has not withered away. There is also an insurgent group in the Niger Delta (Ijaw) that has the potential to cause trouble. In reaction to an extremely centralized federation and suppressive marginalization during the military era, a demand for "true federalism," that grants genuine political autonomy and resource control is now fully expressed by ethnoregional groups (Yoruba, Igbo, Niger Delta region) in Nigeria.[34]

Kenya has its northeast frontier Somali problem and the Rift Valley region where ethnic conflicts have erupted on several occasions, in addition to the Indian Ocean coastal region where there is strong demand for self-rule. Ethnic rivalry for controlling the overbearing presidency in a winner-take-all politics resulted in ethnic conflicts in 2007 and subsequent elections, and continues to divide Kenyans along ethnic lines.[35]

A precaution is in order here. First, cleavages do not automatically translate into a political project. Political and economic injustice that is reinforced by deep

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[32] Marks, Simon; Walsh, Declan, *Refugees Come Under Fire as Old Foes Fight in Concert in Ethiopia*, N.Y. Times, December 28, 2020:
https://www.nytimes.com/2020/12/28/world/africa/Ethiopia-Eritrea-Tigray.html.

[33] Peter Lewis & Darren Kew, *Nigeria's Hopeful Election*, 26.3 Journal of Democracy 94 (2015).

[34] D. Babalola, "Nigeria: A Federation in Search of Federalism," 50 Shades of Federalism (2017) http://50shadesoffederalism.com/case-studies/nigeria-federation-search-federalism/

[35] Susanne Mueller, *The Political Economy of Kenya's Crisis*, 2.2 Journal of Eastern African Studies 197 (2008).

cleavages, elites that frame the issues, and a state response or the lack thereof all play their own roles in the process of transformation. As argued by Anderson and Choudhry, cleavage or diversity is not destiny. It requires agency—political entrepreneurs that read into the political dynamics of the country and frame the issues in a way that appeals to their audience. These political entrepreneurs are critical in "framing of narratives,"[36] articulating perceived or real exclusion and subjugation. "Political entrepreneurs are critical to the success of political mobilization by framing the case (of ethno nationalism), developing strategies, and marshalling resources."[37] They articulate alternative narratives that seek to deconstruct any centrist narrative about the past, present, and future (fears and possible hopes) addressing the grievances and the entitlements of the population they claim to represent with appeasements including territorial entitlements. Through this, an ideology is framed and a plan set for concrete action.

Second, Gurr argues that conflict between competing nationalisms typically escalates in stages, and it is here that one finds the link with state policy. The secessionist demand of Eritrea's elites in the mid-1980s was limited to a restoration of the federation (1952-1962) that was unilaterally abolished by Emperor Haile Selassie in 1962. With the military regime's failure to respond and its resort to violence, radical proposals such as secession emerged. Thus, cleavages often start with nonviolent modest demands, and when regimes fail to respond, evolve into violent protest and finally rebellion. This escalation occurs through a pattern of demands and responses: nonviolent protest is met with a lack of political responsiveness, which in turn leads to violent protest, which is met with a violent reaction, and which then leads to rebellion and an armed conflict and civil war. State policy and action or inaction is thus a major factor that can *escalate or moderate* ethnonationalism. Territory also remains key aspect of mobilization. Ethnonational-based cleavages aspire for self-government over a defined territory at times claimed as homeland, and even

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[36] Anderson and Choudhry, *supra* note 24, 383. For South Africa, see Nico Steytler, "The Withering Away of Politically Salient Territorial Cleavage in South Africa and the Emergence of Watermark Ethnic Federalism," in George Anderson & Sujit Choudhry (eds.), *Territory and Power in Constitutional Transitions* 223 (2019).

[37] *Ibid.*, 382.

wish it to be territory over which they exercise statehood if they secede. On the contrary, the state insists on territorial integrity, unity, and full control over each territory. Contestation over territory is thus an integral part of the political debate. Thus, countries with deep cleavages cannot presume to have stable territory, a condition normally assumed in countries that do not have such politically-mobilized cleavages.

Third, the process of transformation from a diversity that is not mobilized to a political project is heavily associated with the nation-building project pursued by the central government, including the forceful annexation of previously semi-autonomous territories, the imposition of a common national identity including language, and the centralization of power and resources. *Left outs* from the process design a defensive response to the central state-led project of nation building.[38] In other words, ethnonational-based cleavage and political mobilization is often a reaction to centrist elites' project and a search for finding a space for political power and identity.[39] It is a substate nationalism framed in reaction to the central government's nationalism. There are thus competing nationalisms within the nation-state that, if not addressed, could lead to violence, civil war, and state fragmentation. Both are pursued in the name of nationalism and have the potential to fuel the passions and emotions on both sides of the political spectrum to cause political instability and state collapse. One may call this a clash of nationalisms, one pursued by the central government in the name of nation building, patriotism, civic nationalism, unity, and ensuring territorial integrity, and the other by the ethnonationalist elites' aspiration for self-government and autonomy.

The civil war in Ethiopia (1974-1991) fits well into the above framework. The centrist military regime fought the ethnonational-based liberation fronts in the name of **ኢትዮጵያ ትቅደም**/ *īteyopeyā teqedame* (Ethiopia First) and ensuring the territorial integrity of the country while branding them as secessionists. The

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[38]   Anderson and Choudhry, *supra* note 24, 381.

[39]   Lars-Erik Cederman, Andreas Wimmer & Brian Min, *Why do Ethnic Groups Rebel? New Data and Analysis*, 62.1 *World Politics* 87 (2010).

ongoing war in Ethiopia is framed by the ruling elite as "Ethiopia shall prevail." The ethnonationalist elite accuse the centralized nation-state as a *mask* whereby the centrist elites' culture, language, religion can become the national culture, language, or religion.[40] In other words, the group—however narrow its base—which controls the state uses it not only to marginalize others from power and resources but also uses state institutions and policies to "promote, consolidate and create a privileged position with respect to its identity and its manifestations. The state is defined as the expression of the group's nationhood."[41] The non-material aspects of conflict, such as the search for dignity and collective self-esteem,[42] a rich history ("we were great and we want to be great again"), and claims by ethnonationalist groups to regaining lost social status (dignity) in response to historical traumas fuel the political and resource conflict.[43] As Connor points out, "Men do not allow themselves to be killed for their interests; they allow themselves to be killed for their passions."[44] It is not surprising then that the legitimacy of the government, its institutions, and the values upon which it is established remain one of the sources of tension and at times the cause of its terminal crisis.

Fourth, majoritarian-based democracy in deeply divided societies could generate problems, necessitating the need for other inclusive options. This is an area where institutional design matters a lot. This is particularly acute if the drivers of the central government's version of nationalism are not a majority. In many cases, as in the four African case studies, there is no dominant ethnonational group that enjoys a demographic majority and could claim to have democratic majority to pursue its goals. This becomes a clash between a minority that has state resources at its disposal and attempts to impose its will on other minorities. Yet even if the central government's project of nationalism enjoys a majority, it pits a permanent majority against a permanent minority with no hope of

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[40]   Kymlicka, *supra* note 2, 61-63.

[41]   *Ibid.,* 62.

[42]   Walker Connor, *Ethno-nationalism: the Quest for Understanding* (1994).

[43]   Francis Fukuyama, *Identity: The Demand for Dignity and the Politics of Resentment* (2018); Kymlicka, *supra* note 2, 81; Horowitz, *Ethnic Groups in Conflict* (1985), 131-34.

[44]   Connor, s*upra* note 42, 206.

becoming a majority. Arend Lijphart brought this tension to the fore in post-Saddam Iraq. Majoritarian democracy applied to Iraq would mean "a national government mainly or exclusively Shi'ite majority that excludes Sunnis and Kurds … and it will be naïve to expect such minorities condemned to permanent minority to remain loyal or constructive."[45] With this comes the question of why ethnonational minorities under perpetual rule of a majority could be expected to be loyal to such regime and stay in the union. The general assumption of majoritarian democracy, that the rulers alternate such that today's political majority will become tomorrow's political minority, does not hold true in deeply divided societies. In this context, majoritarian institutions may suffer from a legitimacy crisis in which the decisions of the majority are not accepted by the minority. The values of the centrist state such as the flag, the national anthem, public policy, the media, and language and cultural policies that are instruments of centralized nation building are deeply resented and rejected by ethnonational minorities. Thus, alternative theories such as consociational democracy have been recommended when the political system faces deeply divisive cleavages. Instead of having winners and losers, consociational democracy brings major political actors together either on equal footing or through proportional arrangements to power and insists on consensus decision-making on fundamental issues. Those left out in the majoritarian democracy become decision makers through power sharing, reducing the potential for conflict. Distinct institutional arrangements thus matter in managing cleavages and reducing conflicts.

2. The Rise of New Authoritarian Centrist Elite and Its Impact on Self-rule

It is now time to examine the policies and decisions of the rising, new, centralizing elite. The first indicator of authoritarian centralization in Ethiopia is the federal government's action and the removal of regional state heads. Since the new government came to power in 2018, many of the leaders of the regional

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[45] Arend Lijphart, *Constitutional Design for Divided Societies*, 15.2 Journal of Democracy, 98 (2004).

states have been removed by the ruling party—in disregard of regional states' mandate to self-rule and the people's right to elect their own leaders[46] — imposing its will by force including waging civil war in regional states. This is happening despite popular support for democracy and federalism as indicated by Afrobarometer.[47] Instead of providing political solutions to major issues (e.g., a more inclusive political system, more working federal languages, transition to democracy, fair sharing of resources and genuine self-rule have been, among others, the most popular slogans of the popular protests since 2015),[48] the new trend is to use force to suppress popular demands. From Somali region[49] to Sidama,[50] Oromia,[51] Tigray, and Wolayta,[52] the actions taken by the federal government speak for themselves: a one-party show, military rule (including the

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[46] The EPRDF used to remove regional state heads, but there was some effort to follow constitutional rules. Regional state councils would at least approve party decisions. Current practices show complete disregard for constitutional rules and procedures.

[47] The overwhelming majority of Ethiopians support democracy and seek accountable governance according to a study from Afrobaromter, October 30, 2020, https://www.afrobarometer.org/articles/afrobarometer-presentation-federalism-constitution/.

[48] Lefort & Davison, *supra* note 13.

[49] See Tobias Hagmann, *Fast Politics, Slow Justice: Ethiopia's Somali Region two Years After Abdi Illey*, Briefing Paper, September 11, 2020.

[50] Morris Kiruga, "The Sidama crisis and escalating demands for statehood challenge Ethiopian constitution," The Africa Report, (August 2, 2019), https://www.theafricareport.com/15883/the-sidama-crisis-and-escalating-demands-for-statehood-challenge-ethiopian-constitution/; William Davison & Kulle Kursha, "As Southern Nations break free, pressure mounts on EPRDF," Ethiopia Insight, (November 28, 2018), https://www.ethiopia-insight.com/2018/11/28/as-southern-nations-break-free-pressure-mounts-on-eprdf/

[51] Tsedale Lemma, "After the Postponed Elections: Ethiopia's Fragile Transition Hangs in the Balance," BTI, (August 24, 2020), https://blog.bti-project.org/2020/08/24/ethiopias-fragile-transition-hangs-in-the-balance/; Etenesh Abera and Biah Jelan, *Analysis: Oromia Reeling from State Violence after Security Forces Kill, Injure a Staggering number of Protesters*, Addis Standard, August 19, 2020, https://addisstandard.com/analysis-oromia-reeling-from-state-violence-after-security-forces-kill-injure-a-staggering-number-of-protesters/

[52] Medihane Ekubamichael, *Weeks after Army's Violent Crackdown in Wolaita, Prosperity Party Removes Zonal Chief*, Addis Standard, September 2, 2020, https://addisstandard.com/news-weeks-after-armys-violent-crackdown-in-wolaita-prosperity-party-removes-zonal-chief-administrator-others/; Minyahil Tadesse, "It's time to respect the Wolayta people's constitutional rights," Ethiopia Insight, (August 28, 2020), https://www.ethiopia-insight.com/2020/08/28/its-time-to-respect-the-wolayta-peoples-constitutional-rights/; Mulugeta G. Berhe, "Ethiopia's political crisis plays out in the regions. Why it's a federal problem," The Conversation, (August 27, 2020) https://theconversation.com/ethiopias-political-crisis-plays-out-in-the-regions-why-its-a-federal-problem-144893.

use of emergency decree to remove regional state leaders and suppress public demands), violence, excessive use of force,[53] massive abuse of human rights,[54] political killings and imprisonment of key opposition political leaders (including Jawar Mohammed,[55] Lidetu Ayalew, Bekele Gerba, several senior Oromo leaders, Eskinder Nega—many of them released later—and thousands of junior opposition party members) and restricting media outlets and internet.[56] The federal government has issued several emergency rules imposing military rule (otherwise called "command posts") in regional states such as Oromia,[57] Tigray, Benishangul-Gumuz,[58] parts of the Amhara[59] and the South[60] but only a few of

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[53] Ayele Woubshet, "Our 'protectors' in blue: Police brutality and misconduct in Ethiopia," Ethiopia Insight, (August 14, 2020), https://www.ethiopia-insight.com/2020/08/14/our-protectors-in-blue-police-brutality-and-misconduct-in-ethiopia/

[54] Declan Walsh, *Ethiopia's War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says*, N.Y. Times, May 23, 2021, https://www.nytimes.com/2021/02/26/world/middleeast/ethiopia-tigray-ethnic-cleansing.html; Servet Gunergok, "Ethnic cleansing being Committed in Tigray: Report" Anadolu Agency, (May 23, 2021), https://www.aa.com.tr/en/americas/ethnic-cleansing-being-committed-in-tigray-report/2158784; See Amnesty International Report, Beyond Law Enforcement: Human Rights Violations by Ethiopian Security Forces in Amhara and Oromia, May 29, 2020, https://www.amnesty.org/download/Documents/AFR2523582020ENGLISH.PDF.

[55] The government charged Jawar and others of terrorism. See Elias Meseret, *Ethiopia charges prominent opposition figure with terrorism*, Washington Post, September 19, 2019, https://www.washingtonpost.com/world/africa/ethiopia-charges-prominent-opposition-figure-with-terrorism/2020/09/19/52249eb0-fa6c-11ea-85f7-5941188a98cd_story.html

[56] Since June 2020 several media houses critical of the government have been shut down (Asrat media, Oromo Media Network, Tigray TV, Dimtsi Weyane, OMN). The internet is blocked in parts of Ethiopia; Girma Gutema, "An 'alien' star in Ethiopia's skewed media universe is 'cancelled'" OMN, (August 12, 2020), https://www.ethiopia-insight.com/2020/08/12/omn-an-alien-star-in-ethiopias-skewed-media-universe-is-cancelled/

[57] Bileh Jelan & Siyanne Mekonnen, *Analysis: Amid renewed violence and conflicting accounts army places Oromo Special, South Wollo & North Shewa zones of Amhara region under command post*, Addis Standard, April 19, 2021, https://addisstandard.com/analysis-amid-renewed-violence-and-conflicting-accounts-army-places-oromo-special-south-wollo-north-shewa-zones-of-amhara-region-under-command-post/

[58] "Metekel Zone Command Post Takes Measures Against 23 Anti-Peace Elements," Fana BC, (December 8, 2020), https://www.fanabc.com/english/metekel-zone-command-post-takes-measures-against-23-anti-peace-elements/

[59] "Another command post established after fresh conflict in northern Ethiopia," APA News, (November 3, 2021), http://apanews.net/en/news/another-command-post-established-after-fresh-conflict-in-northern-ethiopia

[60] "Ethiopia: Army to Take Over Security in Troubled South," Tesfa News, (July 23, 2019), https://www.tesfanews.net/ethiopia-army-command-post-take-over-security-sidama/

them have been submitted to parliament for approval.[61] Command posts imply that civilian rule is being suspended and replaced by military rule and, owing to its frequency and the wide geographic coverage, it has become the new normal. It is as if militarism has replaced federalism.

More serious political parties that pose electoral challenge to the ruling party, such as the Oromo Federalist Congress (OFC) faction of the Oromo Liberation Front (OLF) and TPLF are either marginalized or branded as terrorists. These are the major parties that are calling for more inclusion at the center and genuine self-government or even confederation. The marginalization has thus a peculiar dimension: it pushes the ethnonational-based parties and creates favorable ground for parties that opt for a more centralized form of government.[62]

The second indicator is the ideological framework of the ruling party. The government's close advisor stated "we will continue to implement Menlik's (1889-1913) nation building project that was disrupted by EPRDF in 1991."[63] This was a centralized Ethiopia that liquidated quasi-autonomous kingdoms that existed for a long time through brutal and coercive processes that became the source of Ethiopia's political agony in the last century. The paradoxes inherent in this process are well known, ranging from those who think it was a normal process of nation building[64] to those who think it was empire building and a part

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[61] The command post imposed in Benishangul Gumuz in 2020 and the country-wide state of emergency imposed in November 2021 have been approved by parliament *Update: Details of Ethiopia's State of Emergency Proclamation*, Addis Standard, November 2, 2021, https://addisstandard.com/update-details-of-ethiopias-state-of-emergency-proclamation/

[62] Rene Lefort, "Ethiopia's war in Tigray is 'but the tip of the iceberg when it comes to conflicts ravaging the country'" *The Africa Report*, (April 30, 2021), https://www.theafricareport.com/84350/ethiopias-war-in-tigray-is-but-the-tip-of-the-iceberg-when-it-comes-to-conflicts-ravaging-the-country/; Rene Lefort, "Preaching unity but flying solo, Abiy's ambition may stall Ethiopia's transition" Ethiopia Insight, (February 25, 2020), https://www.ethiopia-insight.com/2020/02/25/preaching-unity-but-flying-solo-abiys-ambition-may-stall-ethiopias-transition/

[63] See interview with Daniel Kibret, Ethiopia News, March 25, 2020, https://www.youtube.com/watch?v=WZzcxrHngV4&t=1759s.

[64] See for details Donald Levine, *Greater Ethiopia: The Evolution of a Multiethnic Society* (2nd ed., 2000).

of colonialism.[65] In between the two extremes, one finds those who describe that era as "prison house of nationalities"[66] and advocate for a new social contract that allows for a more inclusive center and genuine self-rule, be it in the form of a federation or confederation.[67]

Reinforcing this development is the transformation of the EPRDF to PP under Abiy that turned former relatively autonomous coalition and affiliate members of the EPRDF into branches. The party's internal rule provides that members of PP in regional states are branches of the central leadership in Addis Ababa, no longer autonomous units as they were before.[68] Applied in a federal context this means that regional states are *branches,* not autonomous bodies. Thus, since the establishment of PP, Ethiopia is effectively now a unitary decentralized state, not a federation. Besides, the new equivalent that advocates for the return to the old nation-building era is Abiy's "መደመር/*madamare.*" The ongoing war in Tigray is sloganized by its supporters and media activists as "Ethiopia shall prevail," the new version of Derg's (1974-1991) **ኢትዮጵያ ትቀደም/** *īteyopeyā teqedame* (Ethiopia First). Prime Minister Abiy recently rejected the concept of Ethiopia as a *pluri*-nation state as outlined in the preamble of the 1995 Constitution and said "we are one people." Hence the critique, as aptly explained by Trueman, that the "imperial narrative is being recycled" in a new form through Abiy.[69] This new trend was partly tempered following the intra-party crisis and power struggle between the ADP and ODP wings of PP, shifting the balance in favor of narrow circles of ODP after deposing senior members of ADP during mid-2022. It is yet to be seen what this shift means, but so far, the new regime is fully backing the pre-1991 narrative. This is not surprising. Abiy's induction speech to

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[65] Assefa Jaleta, *Oromo Nationalism and Ethiopian Ethnocratic Politics*, 20 Horn of Africa 11-45 (2002).

[66] Bahru, *supra* note 10.

[67] Merera Gudina, *supra* note 18.

[68] Bekele Erko, "Regional Prosperity Party leaders need to regain autonomy—and rescue Ethiopian democracy," Ethiopia Insight, (September 11, 2020), https://www.ethiopia-insight.com/2020/09/11/regional-prosperity-party-leaders-need-to-regain-autonomy-and-rescue-ethiopian-democracy/

[69] Trevor Trueman, "An imperial narrative gets recycled," Ethiopia Insight, (August 24, 2020), https://www.ethiopia-insight.com/2020/08/24/an-imperial-narrative-gets-recycled/

government officials in his early days as prime minster included the line "when I was seven years old my mother told me that I will be Ethiopia's seventh king".[70] One cannot expect democratization and genuine self-government under a leader who thinks he is Ethiopia's seventh king. A centralized kingdom is antithesis to federalism and self-government.

The third indicator is a new policy that regulates regional state police. The Constitution empowers regional states to establish their own police to ensure peace in their territory (Article 52).[71] However, a recent policy document of the federal government shows that the federal government has proposed to dissolve the regional state police alleging that it has been heavily militarized beyond the requirements of its mission and is becoming a threat to peace and security.[72] The document further states that the "special police" forces of the regional states are becoming tool for extremist ethnic and religious groups.[73] It centralizes the recruitment process of regional state police by subjecting it to federal control.[74] Regional state police, according to this document, must be made *accountable*[75] to the federal police while reserving the administrative accountability to the regional states.[76] Reversing previous trends and violating the regional state mandate, it requires the promotion and appointment of deputy commissioners

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[70] See his speech from May 2018: Ethiopian Broadcasting Corporation, **የኢፌዴሪ ጠ/ሚ ዶ/ር አብይ አህመድ ለካቢኔዎቻቸው የሰጡት ገለፃና የስራ መመሪያ - ክፍል ሁለት** (trans. FDRE Prime Minister Dr. Abiy Ahmed's Explanations and Instructions to his Cabinet - Part II) https://youtu.be/tNBXFPMM0cg?list=TLPQMTMxMDIwMjKk9nylzPINHQ

[71] Regional states have also established special police forces that resemble more of an army than regular police. Regional states claim that the special police should be treated as a manifestation of political autonomy. Yet this militarization has caused concerns and the federal government wants to regulate it. This new regulatory Police Standard does not, however, register a difference between the regular police and the special police. Regional states thus question its constitutionality. See *Police Standard of Ethiopia*, Policy Document, Addis Ababa, December 2020, 61-78. Interview with expert involved in the preparation of the document, Ministry of Peace, May 15, 2021, Addis Ababa.

[72] *Ibid.*, 79.

[73] *Ibid.*, 58.

[74] *Ibid.,* 71.

[75] *Ibid.* The regional state police will be headed by Commissioner whose status is one step lower than the Federal Police Commissioner General. It introduces a new element of regional state police accountability to the federal level that violates the federal principle.

[76] *Ibid.*, 67.

and the commissioner of regional states to be made by the federal government (Ministry of Peace).[77]

Fourth, there are signs that evince a move towards a centrally-designed making and unmaking of constituent unit boundaries as part of the shift to "geographic federalism", doing away with the current federation. Under an apparent rationale that addressing interregional state disputes has become difficult to manage and requires an "expert-based" solution, the federal government established an "Identity and Administrative Boundary Commission"[78] with an allegedly country-wide mandate and perhaps to dismantle the federal system identified by the centrist elite as the "main source of Ethiopia's political crisis."[79]

As per the federal Constitution Article 48, disputes and misunderstandings between two or more regional states are expected to be resolved amicably by the parties in question. If that fails, the matter has to be submitted to the House of Federation (HoF)—a non-legislative second chamber composed of representatives of the different ethnonational groups. Yet, despite such a clear constitutional principle, the federal government issued a proclamation establishing the Identity and Administrative Boundary Commission that is accountable to the Prime Minister. The Commission is required to bring studies addressing identity-based and boundary disputes to the federal executive, parliament, and the HoF. As per the Constitution, identity-based demands are decided by the local and regional state elected councils once the demand is submitted by the concerned community. The new body takes away the mandate of the community and the regional state councils and ultimately the *substantive* mandate of the HoF. What has been bestowed by the *Constitution* to the regional states and the HoF is now given to the Commission by *law*. Self-

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[77] *Ibid.*, 47

[78] See Proclamation 1101/2019, Administrative Boundary and Identity Issues Commission.

[79] One of the main opinion makers on this—a former Derg official—wrote, "ethnic politics that has been institutionalized by the ruling party for the last 28 years was the single cause," Dawit Woldegiorgis, "Ethiopia: on the Brinks," Borkena, (April 10, 2019), https://borkena.com/2019/04/10/ethiopia-a-country-on-the-brinks-by-dawit-woldegiorgis/. There is little grasp of the political reality on the ground and there is little debate on the causes of ethnonational based mobilization and the deep cleavages that accompany them.

government as stipulated in the Constitution is mandate of the "nations and nationalities" (Articles 8 and 39) and any controversy related to self-government is adjudicated by the HoF: the house that is supposed to guard their interests. As it takes away the mandate of the HoF and introduces a centralized decision-making process disregarding regional states, experts argue it is an unconstitutional body. Indeed, some of the members are well-known political activists and leaders of political parties—partisans, not independent adjudicators as claimed by the federal government and the law itself.[80]

The nomenclature of the Commission is also controversial. In Amharic the word **"የአስተዳደር ወሰን/***ya'asetadādare wasane*" is centrist in its connotation. Regional states in Ethiopia are autonomous units, not provincial boundaries, as in a unitary state, and it is indeed very odd to refer to **የአስተዳደር ወሰን/***ya'asetadādare wasane* as if the boundaries of the states can easily be made and unmade by the federal government. Any adjustment to the boundaries of regional states can only be made with the participation of both the federal government and the regional states, as it amounts to a constitutional change. The normative assumption of the law thus speaks for itself as very centrist and thus is rightly criticized as designed with a "**አሃዳዊ**(*'ahādawi*)*/*centrist mindset."[81] Ironically, the decision of the Council of Constitutional Inquiry (CCI)[82]—made in response to Tigray's challenge of the constitutionality of the law establishing the Commission—cites examples from Nigeria and India to justify its decisions by explaining the constitutionality of the law to reject the application from Tigray that questioned its constitutionality. In both federations, particularly India, the federal parliament is mandated by the Indian constitution to make and unmake provincial boundaries as if India is a unitary state (Articles 3 and 4). On the contrary, the Ethiopian Constitution does not give this kind of mandate to the

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[80]   Members include Andargachew Tsige, Aregawi Berhe, and Lencho Latta. See "Parliament approved members of the Identity and Boundary Commission," Borkena, (February 5, 2019), https://borkena.com/2019/02/05/parliament-approved-candidates-to-boundary-and-identity-commission-members/.

[81]   The application from Tigray Regional State to the CCI as summarized in the decision of the CCI of *Hamle* 24/2011 E.C. captures this point very well.

[82]   *Hamle* 24/2011 E.C.

federal government or the federal parliament. Indeed, under Articles 8 and 39, constituent units are given a wide range of autonomy and this autonomy covers both political and territorial autonomy. In a genuine federation, the federal government cannot unilaterally make or unmake boundaries of constituent units. It requires the consent of the units.

Arguably, the law could have established an independent body of experts, not political activists, under the HoF that could provide expert opinions on the same matters to the HoF, helping it make sound decisions. Abiy's speech in July 2021 that defined the contested territories (in western Tigray) as belonging to *Begemidir* (the old name of Gondar of the Amhara region) also prejudges an outcome that may be made by the Commission.[83] Federal institutions are supposed to mediate impartially in disputes between regional states. The Amhara and Tigray regional states have claims and counter-claims over a disputed territory. The federal army is thus given a green light to side with the Amhara region and thereby reduced to serving as an agent of the Amhara elite, no longer the impartial Ethiopian defense force. The outcome of the Commission is now a forgone conclusion.[84] By doing this, Abiy has made the federal institutions subservient to the interests of the centrist elite. This approach is unlikely to bring lasting solutions both to the inhabitants of the contested territories and to the regional states (Amhara and Tigray).

Thus, since the establishment of PP, Ethiopia is effectively a unitary decentralized state, not a federation anymore. This remains a puzzle because the Constitution has not been amended. One should examine the forces that brought Abiy to power to understand the risks of this development. He came from Oromia, and it is well known that the core content of the protests in Oromia was "we need a genuine federation, more self-rule, and ceased federal government intervention in states." In other words, it was a demand for more, not less autonomy. It is an irony then that Abiy is keen to centralize power

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[83] See his speech July 1, 2021, https://www.youtube.com/watch?v=sJPw2EwNhx4

[84] Unsurprisingly, an application made by Tigray Regional State to quash the law establishing the Commission as unconstitutional was not accepted by the CCI. The CCI on *Hamle* 24/2011 E.C. ruled that the contested law is constitutional and rejected the application.

contrary to the wishes of his own social base. This is a paradox but clearly reveals his plan. As mentioned already, the Constitution has not been amended and the new ruling elite introduced these policies in violation of the political autonomy of the states.

One has to note as well that the centralization drive is limited by deinstitutionalization of the public and security sectors limiting the capacity of the state. Indeed, deinstitutionalization characterizes the new regime. The federal government has lost monopoly over the use of force and has not been able to ensure law and order throughout the country, the bare minimum role of any government.[85] This development has affected public trust in authorities and public institutions.[86] Ethiopia has more than four million internally displaced people as a result of horizontal and vertical conflicts that the government was not able to handle, one of the highest in the world.[87] Following an interethnic conflict between Amhara and Benishangul Gumuz, Deputy Prime Minister Demeke Mekonen said "there is no other option for residents in Metekel zone other than organizing, arming and defending themselves."[88] The federal government has let the proliferation of informal forces such as Fano, Qeerro and regional state special forces threaten it, and as a result the federal government has lost physical control of parts of Oromia, Benishangul Gumuz, Amhara, and

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[85] A former Derg official who returned to Ethiopia following Abiy's amnesty, and who initially advised the PM to scrap the existing constitution and start a fresh transition, said "Ethiopia under Abiy is officially a failed state," BBC Amharic, (April 10, 2019), https://www.bbc.com/amharic/news-47879359

[86] Fikremariam Molla Gedefaw, "For prosperity, Ethiopia needs institutional not individual strength," Ethiopia Insight, (September 15, 2020), https://www.ethiopia-insight.com/2020/09/15/for-prosperity-ethiopia-needs-institutional-not-individual-strength/

[87] Ethiopia: IDP Population Movement—Emergency Plan of Action Final Report DREF n˚ MDRET019, Situation Report, July 23, 2019, https://reliefweb.int/report/ethiopia/ethiopia-idp-population-movement-emergency-plan-action-final-report-dref-n-mdret019; "Restore Law and Order, Not at the Expense of Constitutionalism," Addis Fortune, (November 18, 2017), https://addisfortune.net/columns/restore-law-and-order-not-at-the-expense-of-constitutionalism/

[88] Siyanne Mekonnen, Deputy *PM Recommends Arming Civilians in Metekel, Benishangul Gumuz Region as Spate of Attacks by armed men leaves dozens killed*, Addis Standard, October 14, 2020. https://addisstandard.com/news-deputy-pm-recommends-arming-civilians-in-metekel-benishangul-gumuz-region-as-spate-of-attacks-by-armed-men-leaves-dozens-killed/

Tigray. The Ethiopian state is thus contracting and shrinking. This fact speaks volumes about the state of affairs in Ethiopia. A former official, Dawit W. Giorgis, wrote that Ethiopia under Abiy is "officially a failed state by all indicators."[89] Thus, alongside the drive for centralization, there is also fragmentation.

It should be mentioned that, in addition to the sham nature of the federations, it was the effort to centralize by the ruling elite that triggered the failure of the USSR and the Yugoslav federations.[90] There is thus a worrying parallel in Ethiopia at present: the more PP tries to centralize and impose military rule, the more it triggers ethnonationalism and the threats of fragmentation that comes with it. It is this worrying trend that we have labelled as the rise of a new centrist authoritarianism. Thus, return to centralization and any effort to break down already-mobilized ethnonational groups into pieces in an attempt to end group-based rights could therefore risk accelerating the country's collapse.

Bargaining and negotiation between the two levels of governments is an integral element of federalism; unilateral action is not. Federalism requires the will and commitment to implement the pact as outlined in the supreme constitution by both levels of governments. Resort to force or unilateral action goes against the federal will. The Ethio-Eritrea federation (1952-1962) was unilaterally dissolved by the Emperor and the result was civil war and Eritrea's secession in 1993. The Addis Ababa Agreement that ensured autonomy to South Sudan (1972-1983) and that brought relative peace to the Sudan was unilaterally abrogated by the regime in Khartoum, resulting in a devastating civil war and secession of South Sudan in 2011. Withdrawal of federal promises unilaterally has similar consequences.

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[89]   Dawit Woldegiorgis, *supra* note 79.

[90]   John McGarry & Brendan O'Leary, *Must Pluri-national Federations Fail?*, 8.1 Ethnopolitics 11 (2009).

3. Weighing the Integrationist and Accommodationist Approaches for Ethiopia

The tension between those seeking a more centralized system and the ethnonational cleavages has reached a new level. Yet, given that centralization is carried out in the name of promoting unity, questioning the post-1991 federal design, and preferring the integrationist presidential federal system, it is vital to present its essential features and its limitations.

3.1. Integration

At a global level, one softer option advocated by many experts and international organizations, such as the European Union, World Bank, and IMF,[91] as a means to manage diversity is the integrationist federal system advocated by Donald Horowitz[92] and practiced in Nigeria, South Africa,[93] and Kenya. Ethiopia's centrist elite has long either resisted federalism or, when it thought unitary system would make it unpopular in the context of highly mobilized ethnonational groups, resorted under pressure and half-heartedly towards "geographic federalism"[94]—the Ethiopian version of integration. The post-1991 federal design is often identified by the centrist elite as the "main source of Ethiopia's political crisis."[95] Abiy Ahmed, since coming to power in 2018, has indicated this model to be his preferred system and hinted at amending the Constitution along those lines.[96] Lately, Ethiopian Citizens for Social Justice

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[91] See for details Kymlicka, *supra* note 2.

[92] Horowitz, *supra* note 27, 18.

[93] See Richard Simeon and Christina Murray*, Multi-Sphere Governance in South Africa: An Interim Assessment,* 31.4, Publius: The Journal of Federalism 70-71 (2001).

[94] Minase Haile, *The New Ethiopian Constitution: Its Impact upon Unity, Human Rights and Development*, 20.1 Suffolk Transitional L. Rev 3 (1996). See for example Mahmood Mamdani, *The Trouble with Ethiopia's Ethnic Federalism*, N.Y. Times, January 3, 2019, https://www.nytimes.com/2019/01/03/opinion/ethiopia-abiy-ahmed-reforms-ethnic-conflict-ethnic-federalism.html; see also Messay Kebede, *On Transitional Government and Ethnic Federalism*, Ethiopia Observer, August 3, 2018, https://www.ethiopiaobserver.com/2018/08/03/on-transitional-government-and-ethnic-federalism/

[95] See Dawit Woldegiorgis, *supra* note 79.

[96] Gardner, *supra* note 19.

(better known by its Amharic acronym, **ኢዜማ**/'izémā),[97] a party that works closely with the regime in power, has issued its policy that propounds a presidential system, a strong federal government, and a Nigerian type of weaker regional states wherein the major ethnonational groups broken down into several smaller states. Given that this option has emerged as a new narrative from the centrist elite in Ethiopia, the following sections elaborate on it in detail, showing its pillars and weaknesses.

The intellectual and ideological roots of integration are often linked to American federalism. American experts on federalism, compared to their counterparts in Europe, prefer integrationist federation with the sole aim of diffusing power to many centers. In the process of adopting the United States federation (1789), "it was decided that no territory would receive statehood unless minorities were outnumbered by white Anglo-Saxon Protestants"[98] and, hence, there is little overlap between ethnic groups and territory. Indeed, Donald Horowitz,[99] the main architect of centripetal/integrationist federation, who has influenced the design process of most African federations, argued federations should aim to prevent ethnic minorities from becoming majorities at constituent unit level to weaken competing ethnonationalism and prevent a group from becoming a coherent unit, thereby frustrating the potential of becoming a nation state.[100] Following Horowitz's approach, in South Africa, Nigeria, and Kenya the subunit

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[97] **ኢዜማ**/'izémā is seen as the heir of the now defunct Coalition for Unity and Democracy (CUD) of 2005. **ኢዜማ**/'izémā was established after the merger of Ethiopian Patriotic Ginbot 7, Ethiopian Democratic Party (led by Dr. Chanie Kebede), Unity for Democracy and Justice, and *Semayawi* party in 2019.

[98] N. Glazer, "Federalism and Ethnicity: The American Solution" in N. Glazer (ed.), *Ethnic Dilemmas, 1964-82* 279 (1983). There are differences in the intellectual origins of federalism between Americans and Europeans. Americans, as articulated in the Federalist Papers, focus on the federal union created following the collapse of the confederation, while Europeans focus on the parties that establish the federation—as articulated by John Althusius—producing a perspective which is communitarian and confederal. See Ferran Requejo, "Three theories of Liberalism for three theories of Federalism," in Michel Seymour and Alain Gagnon (eds.), *Multinational Federalism: Problems and Prospects* 57 (2012).

[99] Donald Horowitz, *supra* note 43, chapters 14 and 15.

[100] See John McGarry, Brendan O'Leary, & Richard Simeon, "Integration or Accommodation? The Enduring Debate in Conflict Regulation," in Sujit Choudhry (ed.), *Constitutional Design for Divided Societies: Integration or Accommodation?* 41 (2008).

boundaries do not generally match the territorial distribution of major cleavages or are drawn deliberately to cut across the main cleavages. The subunits are not meant to empower politically mobilized cleavages. The main goal of the federation is to disperse power, and as stated in the 2010 Kenyan Constitution the aim is to ensure development and service delivery at the local level.[101]

The system does recognize the right to culture and language as is the case in South Africa, but one can exercise these rights only as an individual. Kenya and Nigeria recognize that they are diverse, but they do not seek to politically empower diversity. The system recognizes diversity without empowering it. Both federations do not ensure the right to self-rule to ethnonational groups. Rather the main objective of the federal system is to diffuse power into many centers to reduce the risks of abuse of power at the center. Besides, the model does not allow political organizations based on ethnicity.[102]

The underlying assumption of the presidential integrationist federal system is that a charismatic and selfless president who wins a popular majority and with wide support from a significant number of constituent units will *unify* the cleavages.[103] A strong federal government run by such a president and weaker states where the major ethnonational groups are broken down into many smaller units will be less a threat to the unity and integrity of the country. As already indicated, the model supports partition of constituent units belonging to ethnonational groups even against their will, as was the case in Nigeria[104] under a

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[101] Conrad Bosire, "Devolution for Development, Conflict Resolution and Limiting Central Power: An Analysis of the Constitution of Kenya" 2010, 226 (LL.D. thesis, University of the Western Cape, 2013); Isawa Elaigwu, *Federalism in Nigeria's New Democratic Polity,* 32.2 Publius: Journal of Federalism 73-96 (2002).

[102] Rotimi Suberu, "Nigeria's Permanent Constitutional Transition: Military Rule, Civilian Instability and the Unending Search for Democratic True Federalism in a Deeply Divided Society" in George Anderson & Sujit Choudhry (eds.), *Territory and Power in Constitutional Transitions* 188 (2019).

[103] In Nigeria the presidential candidate is required to win a plurality of votes nationwide and a quarter of the votes in at least two-thirds of the states and the federal capital (see Article 133 of the 1999 constitution).

[104] Suberu, *supra* note 102, 188.

military rule meant to prevent emergence of substate nationalism.[105] Integration aims more toward building in (enhancing representation at national level) than building out (ethnonational-based subunits with political autonomy).[106] Both Nigeria and Kenya have constitutional rules that encourage political candidates to seek votes beyond their ethnic and social base. For example, in Nigeria, through "the principle of the federal character" (Article 14), a principle that aims to ensure fair representation in national institutions, the federal executive must include a member from each state. Parties that compete in national politics must have a national character, with a certain level of membership and number of candidates across the country. The president is also required to win a majority of votes as well as securing at least one-fourth of the vote in two-thirds of the states (Article 133).[107] Kenya has similar provisions in its 2010 constitution. A presidential candidate must win 50%+1 of the total votes cast in an election and at least 25% of the votes cast in more than half of the 47 counties. The appointment of the cabinet should also reflect the regional and ethnic diversity of the people of Kenya.[108] Political parties that provide presidential candidates are required to have national character and the constitution expressly prohibits the formation of political parties on the basis of ethnicity, region, or religion.[109]

Yet, in societies with deep divisions, where there is no clear demographic majority (a common concern in many federations in Africa), getting such a selfless, unifying president is a rare possibility. The presidency as a one-person institution associated with a winner-takes-all outcome, along with the mandate to make and break the executive and the resources that it commands both formally and informally, is rather a divisive institution.[110] The Nigerian and Kenyan presidential elections demonstrate this point. Instead of unifying different communities, the presidential institution remains very divisive,

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[105] Donald Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* 180-90 (1991).

[106] Simeon, *supra* note 20, 62.

[107] Suberu, *supra* note 102, 191.

[108] See Article 138 of the 2010 Kenyan constitution.

[109] See Article 91 of the 2010 Kenyan constitution.

[110] Lijphart, *supra* note 45, 101.

contentious and cause of electoral violence. The record is simply dismal. The Building Bridges Initiative (BBI) in Kenya, though constitutionally challenged by the Court, is an effort to bring back the position of Prime Minister and reintroduce a shared executive, as happened following the 2007 election crisis.[111] Thus, some have indicated a parliamentary system to be the preferred option.[112]

Second, when societies are deeply divided as in Ethiopia today, there is no guarantee that the presidential candidate will win across ethnonational divides. On the contrary, communities seem to be keen to choose their own candidates. Thus, a presidential system may perpetuate a contest between a permanent majority and a permanent minority, resulting in political frustration and electoral violence as it did in Kenya in 2007.[113] Where there is no clear dominant group, it may even result in a struggle between permanent minorities. "Politicians from minority groups that occupy a few states/single state or share one with other groups have their guaranteed support confined to that state or a fraction thereof … In a divided society where ethnic categories are the primary lens for viewing conflicts, ethnic minority politicians are hardly accepted outside their home base."[114] Thus, the presidential system has little to offer to those left out, leaving them to be under perpetual rule of others, and it is this sense of isolation that fuels ethnonationalism: why stay in a system that is not theirs?

The integrationist presidential federal model works where there exist softer, shallow cleavages in which voters are open to support a candidate even outside of their ethnic group, cutting across cleavages. As argued by Richard Simeon, federations that adopt integration work better in societies with a single dominant culture, softer cleavages, and a broad variety of minorities in particular when such minorities are dispersed throughout the country rather than territorially

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[111] Philip Onguany, *The Politics behind Kenya's Building Bridges Initiative*, 54.3 Canadian Journal of African Studies 557 (2020).

[112] Juan J. Linz, *The Perils of Presidentialism*, 1.1 Journal of Democracy, 51–69 (1990).

[113] Njoki Ndungu, "Kenya: the December 2007 Election Crisis" 19.4 *Mediterranean Quarterly* 111-121 (2008).

[114] John Boye Ejobowah, "Integrationist and Accommodationist Measures in Nigeria's Constitutional Engineering: Successes and Failures in Sujit Choudhry" (ed.), *Constitutional Design for Divided Societies: Integration or Accommodation* 247 (2008).

concentrated.[115] Integration has little to offer to politically mobilized, territorially concentrated ethnonational groups.[116] The current Nigerian federation is in many ways the making of the military rulers that envisioned a very centralized federal system and many small size constituent units that frustrated the demands of bigger ethnonational groups' ambitions for self-government.[117] True federalism by the Yoruba, confederation by the Igbos, a high sense of marginalization and demand for resource control from the oil producing Niger Delta (home of the Ijaw) appear frequently in constitutional reform debates.[118] Thus, cries for reform in the Nigerian federation, leading to rotating the presidency among the six bigger geoethnic regions, demands for "true federalism," and more power and resource devolution to states have all been on the agenda since the return to civilian rule in 1999, although little progress has been made.[119] These are some of the major forces in Nigeria pushing towards federal accommodation and it is thus obvious that integration, resulting in weak states and strong federal governments, has not succeeded in containing cleavages. Thus, Suberu, the Nigerian expert on federalism, concludes that Nigeria is on an unending search for democratic true federalism.[120] These are clear signs that integration of the sort found in Nigeria needs to be flexible to have some accommodative features.

Integration assumes a single people (demos),[121] as it is a federation of citizens, not a federation among many mobilized ethnonational groups (demoi). Democratic legitimacy rests on the "people" but defining the people is central to the debate in divided societies. Integration assumes that democratic legitimacy comes from a "single common people." As argued by Erk, "the center and the

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[115] Simeon, *supra* note 20, 63.

[116] McGarry, O'Leary, & Simeon, *supra note* 100, 51.

[117] See for detail Ladipo Adamolekun, *The Nigerian Federation at Cross Roads: The Way Forward*, 35.3 *Publius: The Journal of Federalism* 400-403 (2005).

[118] Isawa Elaigwu, *Federalism in Nigeria's New Democratic Polity*, 32.2 Publius: Journal of Federalism 91 (2002).

[119] Ejobowah, *supra* note 114, 255.

[120] Suberu, *supra* note 102, 181.

[121] McGarry, O'Leary, & Simeon, *supra* note 100, 41.

constituent units are orders of governments of the same nation."[122] Experts argue that "with the sole exception of the state's citizenship, [integrationists] are against the public institutional recognition of group identities",[123] though they accept diversity in the private sphere (often called soft multiculturalism) and in some respects is not assimilation. In other words, it aims at public *homogenization* through common citizenship.[124] The preambles of the constitutions of Kenya and South Africa recognize that they are diverse, but focus is on unity. The preamble in the Kenyan constitution states: "Proud of our … diversity, and determined to live in peace and unity as one indivisible *nation*."

Public policies, such as education, history, language, media, culture, national symbols, and the legal system are used as tools to promote a single public identity. Public policy also plays a key role in making substate identities publicly invisible.[125] As it is a product of the nation state, it promotes one (national) identity and discourages substate identities. It pretends to turn a blind eye to difference, but the culture and identity of the *dominant elite* implicitly and sometimes explicitly becomes the "national" identity. It promotes and nurtures the chosen identity of the political elite that controls power and is thus not inclusive. Identity then becomes a means for inclusion (a source of pride) or exclusion (a source of subordination and stigma) and a tool for mobilization by the left-outs to end their subordinate position. It is "rooted in the old liberal principle that the individual is the only atom from which to construct and analyze society."[126]

The limitations of this model in dealing with groups that are mobilized against the center became clear towards the middle of the twentieth century, and thus the nation state was forced to reconfigure itself to provide space for substate

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[122] Jan Erk, *The Sociology of Constitutional Politics: Demos, Legitimacy and Constitutional Courts in Canada and Germany*, 21.4 *Regional and Federal Studies* 524 (2011).

[123] McGarry, O'Leary, & Simeon, *supra* note 100, 41.

[124] *Ibid.*, 42.

[125] Kymlicka, *supra* note 2, 42-43.

[126] Daniel Elazar, *Federalism and the Way to Peace* 4 (1994).

entities.[127] Thus the UK, Spain, Canada and Belgium had to open up through a renegotiated social contract for the Scottish, Catalan, Quebec and Flemish autonomous subunits.[128] One could argue in this sense that it was integration applied in the context of deep cleavages that produced political mobilization. Failed integration thus led to accommodation systems where mobilized ethnonational groups in the above countries are by design made majorities at subunit level to ensure the right to self-government to *groups as entities*. The old liberal model based on the individual had to give in and be reformed to create space for left-outs. Deeply divided societies are *pluri*-nations and demand political recognition and empowerment of many nations, not one nation in the country. As argued by Erk, "Democratic legitimacy is based on the union between multiple *demoi*. And not every constituent nation sees the union in identical terms. For English speakers, Canada is a federation of ten provinces; for French speakers, it is a union of two nations."[129] The center and the constituent units are orders of governments of different nations. There are thus competing views on the nature of the union and the source of democratic legitimacy owing to multiple *demoi*. In the presidential federal model, the goal is to construct *one people out of many* and by design prevent ethnonational groups from becoming constituent unit majorities.[130] In other words, it does not ensure group self-government at substate levels.

In Ethiopia, owing to the coerced state formation process towards the end of the 19th and early 20th centuries, and the subsequent failure by the centrist elite to address ethnic-based marginalization, the bigger ethnonational groups established national liberation fronts and brought the central government to its knees in 1991. Since 1991, they have exercised limited political autonomy and continue to demand more, not less autonomy. It was centralization and undue interference in subunit affairs that partly triggered the 2015 protests, resulting in regime change in 2018. One could state that the level of ethnonational-based mobilization in Ethiopia is a *record* within the African context. The new elite has

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[127]   See for details Kymlicka, *supra* note 2, 61-62.
[128]   Watts, *supra* note 30, 76.
[129]   Erk, *supra* note 122, 524.
[130]   McGarry & O'Leary, *supra* note 90, 8.

since 2018 intensified its centralization measures, triggering reaction from ethnonational groups.

Furthermore, in the case of Nigeria, integration and territorial manipulation worked because the military imposed it by force, but the issue is: Why would a strongly mobilized, territorially concentrated group that feels that the central government is repressive and exclusive, as was the case for the most part of 20th Ethiopia, consent to such a divide and rule strategy? The effort by the central government to impose centrist policies in Ethiopia resulted in its liquidation and the regime's demise in 1991. The effort to do the same by the current government has provoked widespread discontent and civil war in Oromia, the South, and Tigray.

Given the distinct nature of the cleavages in Ethiopia, it is hardly possible to address the demands of territorially based and politically mobilized groups within the integrationist presidential federal system as outlined already. Given the peculiar nature of the political cleavages, the next section demonstrates a more relevant consociational parliamentary federation as a preferred alternative.

3.2 Accommodation and power sharing

For countries with deep divisions where ethnonational groups are politically mobilized and identity is politically salient, the two well-recognized alternatives, depending on whether the cleavage is territorially grouped or dispersed, are power sharing and accommodation within a federation or a combination of both.[131] As the cleavages in Ethiopia are for the most part found territorially grouped, power sharing will remain relevant at the federal level.

First, a brief discussion of power sharing as it could exist separately in a polity that is not a federation using the Netherlands as an example. A federation could also exist without embracing power sharing and espousing majoritarian

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[131]   McGarry, O'Leary & Simeon, *supra* note 100, 51.

democracy. The works of Arend Lijpart[132] and the late O'Leary and McGarry[133] have articulated the various elements of consociational, as opposed to majoritarian, democracy. The essence of this approach has been Lijphart's long-held observation: stability despite deep divides in some countries such as Switzerland, Belgium, and Netherlands are associated with consociational democracy. Lijphart writes, "Power sharing denotes the participation of all significant communal groups in political decision-making especially at the executive level."[134] Unlike integration that prefers a presidential system, power sharing is associated with a parliamentary system that is suitable for a power sharing arrangement in the executive, often in combination with a proportional electoral (PR) system. A parliamentary coalition is certainly more inclusive compared to the office of the presidency. As argued by Lijphart, it is a flexible arrangement that aims to ensure broad-based representation and inclusion of all major actors in decision-making, and could be on equal or proportional basis. In Belgium there is equal representation of the Dutch and French speaking communities in the executive. In South Africa (1994-1999) all parties that won representation above a 5% threshold in the legislature had the right to be represented in the cabinet. The executive power may be divided and shared, as was the case in Kenya between Kibaki and Odinga following the 2007 election crisis, and the rest of the cabinet shared between rival parties. It could also take the Swiss form where all communal groups are conventionally represented in the collegial executive, with the presidency rotating among the seven members annually.[135] The inclusion of the major political actors in the political institutions, either through a proportional electoral system or on an equal basis, along with representation of the different groups in public institutions is thus the core feature of power sharing. Power sharing, unlike federalism, often takes a non-territorial form.[136] In other words, it is often recommended for societies that

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[132] Arend Lijphart, "Consociationalism and Federalism: Conceptual and Empirical Links," 12.3 *Canadian Journal of Politics* 499 (1979).

[133] John McGarry & Brendan O'Leary, *The Northern Ireland Conflict: Consociational Engagements* 1-51 (2004).

[134] Lijphart, *supra* note 45, 97.

[135] *Ibid*, 99.

[136] McGarry, O'Leary and Simeon, *supra* note 100.

are deeply divided by identity differences among groups that are found to be geographically intermixed. Through a combination of power sharing that enables them to influence policymaking at the center, and autonomy that entitles them to decide issues related to language, education, and culture, the groups are believed to contribute to political stability. Power sharing could thus remain short of federalism so long us there is no territorially based cleavage demanding political autonomy and self-government.

One could not rule out the relevance of power sharing in most African federations that lack a clear dominant group that, taken alone, constitutes a "50 plus 1" majority.[137] O'Leary has argued that in a context where there is no *staatsvolk* (a dominant group that enjoys absolute majority and hence has the demographic advantage), political instability will prevail unless there is an inclusive political system that brings the major political actors to power.[138] The solution he proposed is to have executive power sharing among the major political actors. While in the federations mentioned there is an effort to have an inclusive federal government, in reality the federal government is *perceived* as belonging to one dominant group and thus continues to face a legitimacy crisis. Left outs continue to threaten the central government. For instance, since the establishment of the Ethiopian federation, both as a result of constitutional principle (Article 39[3]) and practice, there has been an attempt to reflect the country's diversity in the establishment of the executive. The issue, however, is that representation is meant for some only in the nominal and not real sense. The two coalition members of the EPRDF, that led the Oromia and Amhara regional states in particular, faced serious legitimacy crises until recently, and thus a section of the Oromo and Amhara used to think they were not genuinely represented in the federal institutions; hence the narrative of marginalization and protests since 2015. At present, the federation operates without Tigray and that partly explains the ongoing war against the federal government.

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[137] Ejobowah, *supra* note 114, 234.

[138] Brendan O'Leary, *An Iron Law of Nationalism and Federation? A Neo-Diceyian Theory of the Necessity of a Federal Staatsvolk, and of Consociational Rescue,* 7.3 Nations and Nationalism 273 (2001).

In nearly all African federations, and this includes Ethiopia as well, the federal principle of representation has never been genuinely implemented. Representation of subunits in federal institutions is mainly in the second chamber, federal executive, judiciary, army, and security. Yet inclusive and broad-based federal government remains a scarce commodity, explaining what Steytler and de Visser call "the fragile nature"[139] of the federations as they face threats of fragmentation and secession. Non-inclusive federal government in a divided society means it is perceived as belonging to some and not all, and with this comes the legitimacy crisis explained earlier. To stay in power, the federal government resorts to brute force. The constitutional clauses contain some element of representation. Nigeria has the "federal character" (Article 4[4]), Kenya "institutions should manifest Kenya's diversity" (Article 91), Ethiopia the right to equitable representation of nationalities (Article 39[3]) in federal institutions. However, this representation becomes more *symbolic* than genuine. In many cases it is the federal government that handpicks the "representatives" instead of leaving the matter for the subunits to designate their genuine delegates in the federal institutions. This has been a major paradox in Ethiopia for example as the "representatives" do not have legitimacy in the eyes of the people of the states.

Second chambers take a special role in representing states in the law-making process at the federal level and in airing out their voices. This is particularly critical when the federal government designs laws and policies that may affect the interests of the states. In addition to airing their concerns, constituent units can also block the other house when it exceeds its mandate and impacts their autonomy. The second chamber thus safeguards the interests of the states. The basic principle that guides federations is that, irrespective of their population size, the states are represented on an equal basis. Thus, in Nigeria, there are two senators from each state (Article 48) while in Kenya, each county has one

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[139] Nico Steytler and Jaap de Visser, "Fragile Federations and the Dynamics of Devolution" in Francesco Palermo, Elisabeth Alber (eds.), *Federalism as Decision Making: Changes in Structures, Procedures and Policies* 79 (2015). Fragile federations emerge or aim to prevent fragmentation. Unlike older and developed federations, the unity and territorial integrity of the state cannot be assumed, but faces demands for negotiation from territorially based cleavages.

representative in the Senate (Article 98). In South Africa, each province has ten representatives in the National Council of Provinces (Article 60). The Ethiopian House of Federation is distinct in two respects: it has no law-making function but has wide powers in resolving intergroup conflicts (although in reality it is less-used than it might be because its members are not full time). It also enjoys wide powers in the allocation of subsidies that the federal government allocates to the states—the main source of state revenue. Second, the representation is not based on equality. It is a majoritarian house where each nationality has one seat, but for every additional one million, there is one more seat (Articles 61 and 62). The fact that states in Ethiopia have no law-making functions means that the federal government can easily enact laws that affect the autonomy of states, and in the absence of a constitutional court that impartially umpires intergovernmental disputes, the system leaves states at the mercy of the federal government. The experiences in Nigeria, Kenya and South Africa are relevant in this regard. The states have a role in the law-making process at federal level and they all have either a constitutional court (South Africa) or Supreme Court (Kenya and Nigeria) to address intergovernmental disputes in an impartial manner. Institutions that enforce the supremacy of the constitution and the rule of law and that umpire intergovernmental disputes impartially are indeed vital preconditions for the operation and development of federations.[140] These institutions give life to the powers allocated to the two levels of government and thereby allow the federation to evolve within bounds. Such institutions keep the federation balanced and give concrete meaning to the division of powers. In Africa, political power is yet to be tamed and institutionalized. The "big man" or the dominant party at the center is a major obstacle to federalism, power sharing, and the separation of powers. Independent institutions such as supreme or constitutional courts play vital roles in limiting power and institutionalizing it. South Africa and Kenya have made some steps, but Ethiopia is far behind in this respect and the federation has largely been open to political manipulations.

It is vital to mention that successful federations with politically mobilized cleavages often combine federalism with power sharing. Groups often are found

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[140] *Ibid.*, 99.

at times to be intermixed and in other places geographically concentrated. Thus, combining the two offers an ideal solution. It is for this reason that the late Elazar argued that consociational federations are the best fit for divided societies.[141] The Swiss and Belgian federations are in many ways consociational. Compared to presidential centripetal federations, consociational parliamentary federations bring the major political actors into the executive and parliament and minimize the risks of winner-takes-all conditions associated with presidential systems. As it often leads to coalition government, the system requires a consensus-based process of decision-making to avoid government collapse, and that is an incentive for elite bargain.[142]

The highest form for accommodating ethnonationalist groups particularly when they are territorially concentrated and politically mobilized is through consociational federalism.[143] The accommodation approach takes "divisions" seriously and does not aim to abolish or weaken them but instead recognizes them and turns them into constitutive elements of democracy and empowerment. When combined with federalism, it treats "the segmented elements" as building blocks of political engagement and aims to make the ethnonational group become a majority at constituent unit level.[144] While Switzerland and Canada were pioneers in this respect, Kymlicka argues, the idea of ensuring self-government to territorially concentrated national minorities is now universal in the West.[145]

The geographic distribution of diversity and its political mobilization remains a vital factor. Unlike integrationist presidential federations, ethnonational parliamentary federations aim to empower such groups by redrawing territories to ensure that they become a majority at substate level. Ethnonational minorities

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[141]   Elazar, *supra* note 126, 57.

[142]   The limitation of coalition-based governments is well known. See Lijphart, *supra* note 21.

[143]   See McGarry, O'Leary, and Simeon, *supra* note 100, 63.

[144]   Kymlicka, *supra* note 2, 69.

[145]   *Ibid.*, 69-70. He mentions Aland Island, South Tyrol, Catalonia, Flanders, Scotland and Wales (devolution), and Quebec. All groups with populations over 250,000 that assert self-government have now been granted in the West.

challenge the coercive process of state formation and the subordinate relationship they have with the center. They assert a national identity whose goal is to ensure self-government within a defined territory, and thus the relationship between groups and territory becomes critical.[146] Self-government is intrinsically linked to territory. At the core of the mobilization is the aim to address political and economic deprivation and regain collective self-esteem by ending their subordinate relation to the elite that controls the center.[147] Their claims may extend to include right to exit, while the center wants to ensure the unity and territorial integrity of the state. Political autonomy within a defined territory as part of the political system is thus a middle way solution to the competing claims of the center and the subunits.

Unlike adherents to the presidential federal model, ethnonational-based federations do not aim to nurture one identity but recognize more than one public identity. Public policy thus promotes multiple identities, not a single identity. Managing mobilized ethnonational diversity and ensuring the right to self-government remains the major task of the federal design. Through its combination of constitutionally entrenched division of power as well as the principles of shared rule and self-rule,[148] it allows mobilized groups to enjoy political autonomy at the subunit level while ensuring representation at the federal level. Through the institutions of shared rule and representation in federal institutions, ethnonationalist groups are given the opportunity to influence decision-making at the center. The logic of this form of federalism is that ethnonationalist groups can only respect the institutions of governance and thus contribute to stable federation when they are granted a satisfactory combination of *influence* at the center and *meaningful autonomy* at the substate level with regard to their own affairs.[149] As practiced in the Swiss collective presidency of the federal executive and the Canadian and Belgian executive by

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[146] Sujit Choudhry and Nathan Hume, "Federalism, Devolution and Secession: From Classical to Post Conflict Federalism," in Tom Ginsburg and Rosalind Dixon (eds.), *Comparative Constitutional Law* 363 (2011).

[147] *Ibid.*, 364.

[148] Elazar, *supra* note 12.

[149] Lijphart, *supra* note 132, 500.

convention or constitutional principle, the different identities have guaranteed representation in key decision-making institutions at federal level.[150] This somehow determines whether ethnonationalist groups will remain loyal to the overarching federation or will prefer to fight or walk away from it. As it recognizes more than one public identity (at the federal and substate levels) and aims to secure coexistence among them, it remains a key instrument for polity-building and managing diversity.

The limitations of the accommodationist approach are well known. It is argued by experts that "it institutionalizes divisions and deepens the fault line that it is meant to address."[151] Experts warn that such arrangements reinforce, not alleviate the cleavages; they provide ethnonational groups with the resources needed to mobilize and challenge the territorial integrity of the state, facilitating fragmentation. However, the alternatives are also very limited. In the first place, in deeply divided societies it is because the cleavages are already deeply entrenched and mutually reinforcing that accommodative approaches are introduced to prevent the next step: protracted conflict, secession, and state fragmentation. Power sharing and ethnonational-based federations are "put in place where other institutional options have failed"[152] or are not available. As argued by Liam Anderson, the choice is between ethnonational federation and nothing. In the menu of options, it is the last resort before break-up or state failure. Indeed, the strength of ethnonational-based accommodation rests on the absence of viable alternatives.

However, it is rare that a subunit will become a homogenous unit, and the mobilized ethnonational groups that constitute a majority at subunit level could tend to be local tyrants that abuse the rights of minorities and thus require institutional guarantees to ensure citizenship and minority rights throughout the

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[150] McGarry, O'Leary and Simeon, *supra* note 100, 61. In the Belgian federation, the Dutch and French speaking communities are represented equally in the federal government.

[151] Horowitz, *supra* note 27, 15-37.

[152] Liam Anderson, *Ethno Federalism and the Management of Ethnic Conflict: Assessing the Alternatives*, 46.1 *Publius: The Journal of Federalism* 3, 16 (2015).

federation.[153] One should note, in the countries that recognize group rights (such as Canada, the U.K., and Belgium) by adapting their respective constitutions to provide space to hitherto marginalized groups, group rights and autonomy came to broaden the scope of human rights protection, not limit them. They already had a well-protected individual rights system long before their constitutions were adjusted to grant autonomy to deeply mobilized cleavages. Yet the individual rights system was found not enough. Representation and autonomy were added to the already well-entrenched individual rights system; it came to reinforce, not weaken it. In most African federations, this is a major concern as the record on citizenship rights is dismal and group rights continue to threaten already weak individual rights. Ethiopia's post-1991 federal experience is a textbook example of the above limitations. Under EPRDF's tight rule and state-led economic growth, Ethiopia was able to ensure relative stability and fast economic growth with massive investment in basic services such as education, roads, and health. With the change of leadership in 2018, a lack of leadership, fragmented ideology, and power struggle made the component parts collapse along fault lines. Critics have aired their concerns, stating that the Ethiopian federal system, by empowering ethnonational groups to self-rule and placing resources, security forces, and the media at their disposal, may weaken common ties.[154] Federalism is about, in the words of David Miller, "nesting identity"[155]— an identity that is aware of itself is unleashed by self-rule but it is also about becoming aware of the identity of others and respecting, recognizing, and having positive interactions with them as well. Federalism assumes intergroup interaction to build cohesion among groups.[156] It does not promote non-interactive existence of parallel and segregated identities. It also entails the coexistence of multiple identities whereby two or more identities feel belonging *both* to their smaller (substate) communities and to a larger, overarching political community and they do not think that both are mutually exclusive. Yet

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[153] See for details Assefa Fiseha, *Intra unit Minorities in a context of Ethno National Federation in Ethiop*ia, 13.1 *Utrecht Law Review* 170 (2017).

[154] See Mamdani, *supra* note 94.

[155] David Miller, "Nationality in Divided Societies," in Alain Gagnon & James Tully (eds.), *Multinational Democracies* 304 (2001).

[156] See Will Kymlicka, *Multiculturalism: Success, Failure and the Future* (2012).

the Ethiopian federal system lacks a comprehensive policy for nesting diversity and for creating cohesion among different groups. Strong institutional protection of individual rights and ensuring fair and genuine representation of minorities at different levels of government mitigates the weaknesses of accommodation and enhances social cohesion by encouraging free movement of people across the federation. Accommodation, thus, needs to manifest some element of integration. Otherwise, emboldened ethnonational groups and their elites may, by focusing on the politics of difference, ultimately target independent nationhood as their objective. It is thus a high-risk strategy that may eventually bring about the country's disintegration.[157] Some of the above symptoms were clearly manifested in the pre-election debates in 2005 and in the ongoing war where some leaders from the opposition fomented ethnic hatred.[158] State institutions such as the police, whose main role is to ensure peace and order and prevent crimes, often took sides in intergroup conflicts and aggravated the problem.[159]

The federal system has also shaped and transformed the nature of intergroup relations and tensions over the years. The fact that disputed areas coincided with the administrative boundaries between regional governments seems to have

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[157] Minase Haile, *supra* note 94.

[158] A key figure from the opposition, Bedru Adem, in a widely televised speech in the eve of the 2005 election read to his audience "let them go to where they came from" widely understood to imply to the Tigrayan community associated with the ruling party that they came from another continent, see Asqual, May 10, 2015; see also Daniel Kibret's speech in Amharic with some genocidal tones against Tigrayans, September 17, 2021, https://www.youtube.com/watch?v=nQlUYj1iybs. Translated by the author as follows: "From now on, we must ensure that people who look like them are not created. As you know after the fall of Satan, there was nothing like Satan that was created. Satan was the last of his kind and they must also remain the last of their kind. There should be no land in this country that can sustain this kind of weed/monster. People like them should not be born in this country ever again. They must be expunged and erased not just from the institutional registers but also from peoples' consciousness and memories."

[159] In Gambella (2015), regional state police were found to be part of the problem in the intergroup conflict between Anuak and Nuer, with local police taking sides alongside its community. See Salem Solomon, "Tracing the Source of Ethnic Clashes in Ethiopia's Gambella Region," VOA News, (February 18, 2016) https://www.voanews.com/a/tracing-source-ethnic-clashes-ethiopia-gambella-region/3197700.html; James Jefferey, "Oromia-Somali Conflict Ethnic Violence Displaces Hundreds of Thousands of Ethiopians," IRIN, (November 10, 2017), https://www.irinnews.org/analysis/2017/11/08/ethnic-violence-displaces-hundreds-thousands-ethiopians.

transformed the conflict between local communities into conflicts between regional states. The Oromia-(Ethio)-Somali Conflict (2017),[160] Amhara-Benishangul, and Amhara-Tigray boundary disputes are examples in which local political elites, the media, and the police apparatus took sides in the conflict, causing death and displacement for hundreds of thousands from both sides and threatening the peace and stability of the country. Federal institutions are also falling into that trap of late. Citizens in different parts of the country accuse federal institutions such as the police and the army of failing to protect them in times of conflict.[161] Disagreements are expected to be resolved through compromise and dialogue using the existing political institutions such legislative bodies, intergovernmental platforms, party-level negotiations, and, if that fails, legal means: the supreme/constitutional court that serves as the ultimate guardian of the constitution. Ethiopia failed to build these institutions and the EPRDF, now rebranded as the PP (after the TPLF declined to join) relied on its own party machinery, and this worked to some extent, at least partly due to the effects of democratic centralism, combined with elitist leaders such as Meles Zenawi (1991-2012).[162] In the absence of such leaders, and with the weakening or fragmentation of the party system, there is nothing left that can serve as a platform to sort out normal political business. Amid failing public institutions, the different actors thus race over to the special police and informal forces as a means to safeguard their interests.[163] The multitudes of vertical and horizontal conflicts demonstrate the death of political institutions. Federal institutions are supposed to mediate impartially in disputes between regional states, but it is the army and security forces that are often the main actors and taking sides. The war in Tigray is perhaps the clearest manifestation of the level of political crisis the country faces amid the rise of the centrist authoritarian elite since 2018, where

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[160] For details, see "Harry Verhoeven, An Eastern Problem for Ethiopia's New Leader," Al Jazeera, (April 9, 2018), https://www.aljazeera.com/indepth/opinion/eastern-problem-ethiopia-leader-180408103243499.html. When all this was happening, the federal government was nearly absent—hence the question by many መንግስት የለም? / *manegesete yalame?* (Is not there a federal government in this country?)

[161] Yared Tsegaye, "Democracy in Action amid authoritarian reaction," Ethiopia Insight, (June 23, 2022), https://www.ethiopia-insight.com/2020/06/23/democracy-in-action-amid-authoritarian-reaction/

[162] For details on this, see Aalen, *supra* note 11; Alex de Waal, *supra* note 12.

[163] Lefort, *supra* note 62.

military intervention and violence, not political solutions, have become the new normal. Federalism has become a victim of militarism and the command posts that ended subunit autonomy.

Conclusion

This article has demonstrated that the nature of a cleavage and its level of mobilization matter to and impact institutional design. Though a softer and preferred option, integration has not been able to respond to strongly mobilized groups in Nigeria and Kenya, and failed integration policy is slowly fueling ethnonationalism, resulting in more radical demands in both countries, albeit to varying degrees.

The nature of the political cleavage in Ethiopia is very unique compared to many countries in Africa. Ethiopia is a textbook example of a deeply divided society where rival nationalisms one led by the state and others led by countless ethnonational liberation fronts have brought about a clash of nationalisms. As a result of a coercive and narrowly based nation building process that liquidated quasi-autonomous kingdoms in the early 20th century and a failure by successive regimes to respond to demands made by ethnonational groups for accommodation, the number of national liberation fronts in Ethiopia is a record within the African continent. The left-outs from the nation building process have continued to challenge the center. The debate between the centrist elite and the left-outs is Ethiopia's major political paradox and has made the country very fragile. In comparison with the other federations under discussion, two points further complicate Ethiopia's political context. The extreme centralization of power and the brute use of force to deal with political issues was an incubator for the ethnonational-based liberation fronts. In addition, the failure to dialogue and compromise in order to resolve political issues characterizes modern Ethiopian politics. It is hard to find something comparable to the political settlement in post-apartheid South Africa or Kenya's post-2007 political deal following the election crisis. Entrenched, territorially based, and politically mobilized cleavage is the outcome. The distinct and radical nature of Ethiopia's post-1991 federal

system, in its determination to address the nationality question (albeit with limited implementation), was an effort to address this issue, though it remained a victim of democratic centralism and the developmental state under EPRDF, leading to wide spread protests since 2015 and a change of government in 2018.

There was much hope that, when the new leadership came to power in 2018, the demands for genuine federalism—in which regional states would exercise political autonomy free from central interference—would be realized. What transpired was however a new form of centralization that has changed the narrative to centralize nation building, issued policies that promote unitarism, removed regional state heads by force and continued to impose "command posts" in the states. Given its geographic coverage affecting most regional states and the frequency of its use, this has become the new normal. The current state of affairs shows that militarism has replaced federalism in Ethiopia. The reaction is vivid: an all-out war against the center, particularly in Tigray and Oromia—two of the states that harbor age-old demands for self-government and are now pushing for a loose confederation. Centralization and marginalization are currently two major challenges, and both are unfavorable to deeply divided Ethiopia.

The fact that the nature of the cleavage has been politically mobilized for decades has an effect on institutional design and on the type of democracy practiced. Ethiopia is home to many armed ethnonational liberation movements that have survived for no less than five decades despite a heavy onslaught from the central government. The goal of their mobilization is to recover the extensive self-government they claim to have enjoyed historically or that they aspire to have now. The current ruling party has chosen to recycle the imperial narrative instead of addressing the cleavages. The more the elite in power tries to centralize, the more it provokes ethnonational elites to push to the extreme. This is a paradox because the new elite claims to hail from Oromia, the very region that abhorred centralization and federal intervention during the protests between 2015 and 2018. In Tigray, Oromia, and the South, demands for more autonomy and self-government have been on the rise, not in decline. Given the

level of mobilization and the current polarization, a loose political arrangement in the form of confederation in which most powers are devolved to the states, with the center only symbolizing unity, can possibly mitigate the tension between the center and subunits. By devolving more power to the states, the stakes at the center are lowered and this could lead to less disagreement. Given that the center is increasingly becoming source of insecurity (at least in the modern era), constituent units will assume more responsibility and reduce the insecurity. The fact that Ethiopia is a country of minorities in which, at central level, none of the groups taken alone constitute a "50 plus 1" majority means that a more innovative political arrangement needs to be crafted to fit the reality. Whatever powers the center assumes must be consensus-based and should engage regional states possibly on equal basis.

As already noted, Ethiopia fits well into the literature on divided societies and needs a peculiarly designed federal and democratic package. Even if Ethiopia were to be democratic and exercise majoritarian-based democracy, its general assumption that the rulers alternate every possible election (that today's majority will become tomorrow's minority) does not hold true. In Ethiopia, there is no dominant ethnonational group that enjoys a demographic majority and could claim to have democratic majority to pursue its goals. This leads to clashes between a minority that has state resources at its disposal trying to impose its will on another minority, and thus is very destructive. Yet, even if the central government's project of nationalism enjoys a majority, it pits a permanent majority against a permanent minority and the latter has no hope of becoming a majority. It would be naïve to expect groups labelled as permanent minorities to remain loyal to the system, and that explains the major source of political crisis. Thus, alternative theories such as consociational and parliamentary democracy need to be adopted. Instead of having winners and losers, consociation democracy brings major political actors together either on equal footing or through proportional arrangements of power sharing and insists on consensus decision-making on fundamental issues. In this manner, those left out of majoritarian democracy become decision makers through power sharing, reducing the potential for conflict. Distinct institutional arrangements thus matter when managing cleavages and reducing conflicts. At heart, it is about

political inclusion and having a just political order. Given the polarization and mistrust that characterizes the relationships between the federal government and the regional states, in the short run a more accommodative system in which decision-making at federal level is more consultative and inclusive of all regional state actors and adopts consensus-based decision-making could serve as a trust-building process. Federal government should use intergovernmental platforms that are inclusive of all regional states as a means to mitigate existing tension and mistrust. Consensus-based decision-making on fundamental political and economic issues between the federal government and regional states builds more trust and reduces the sense of alienation. Without addressing this major issue, it is unlikely that Ethiopia will democratize or be able to respond to deep cleavages, and ignoring this issue may indeed be accelerating the country's fragmentation.

If Ethiopia is to remain a federation, the other distinct institutional feature that fits deeply divided societies with territorial cleavages is political autonomy and representation. Unlike the integrationist presidential federations that disperse power into many centers, ethnonational parliamentary federations aim to empower such groups by redrawing territories to ensure that they become a majority at substate level and so will exercise meaningful political autonomy and self-government while at the same time ensuring representation in the federal political process. As noted already, centralization has affected autonomy. Representation has also remained more symbolic than real. Regional states need to have the autonomy to elect or select their representatives in federal institutions. The fact that the center continues to handpick representatives of the states has made the principle of representation a farce. With genuine representation, consociational parliamentary federations bring the major political actors into the executive and parliament and minimize the risks of winner-takes-all conditions associated with presidential systems. As it often leads to coalition government, the system needs a consensus-based process of decision-making to avoid government collapse, and that is an incentive for elite bargain. Mobilized ethnonational groups that feel less represented in federal institutions have little incentive to stay in the union unless they are assured of some level of influence or even a veto at the center. To minimize the growing mistrust between the federal government and regional states and build trust,

indeed the key decisions that affect the country and the regional states need to be decided by a consensus between federal government and regional state leaders.

DISCUSSIONS

Dr. Mohamed Dejen

As we know, EPRDF was criticized for being heavily centralized and disregarding the federal state structure, and now you say that the PP is even moving towards a unitary system. I have difficulty accepting this assertion since, in the era of identity-based polarized politics, it is very difficult to judge whether it is moving toward a unitary system or that of authoritarian system. Because, although it claims to be one party, PP is more of ethnic-oriented and divided party. Rather, regional states are challenging the center, resisting the policies set by the federal government and acting as a sovereign state with their own armed forces. I see rather that we are moving back to The Era of Princes (ዘመነ መሳፍንት—*Zamana masāfenete*), than moving to a centralized governance system. If the current regime is centralizing, why is it not effectively governing the country? If you say at the same time that there is centralization and the state is falling apart, is it not a paradox? What is your reflection on this?

Dr. Zemelak Ayele

You mentioned confederal arrangement just once and you do not push it as a possible alternative for Ethiopia. It would be nice if you would expand on that. And if a confederal arrangement is opted for, what would keep the country together: security? Economy? Or what else?

Dr. Zelalem Mogessie Teferra

You said that Ethiopia is a country of minorities. I think we should have conceptual clarity on who is a minority (are we talking about numbers, or

historical injustice) and regarding which place (geographical area) we define as minority? Is it in a specific region like Oromia, or in cities like Addis? In my view, Ethiopia is a country of majorities, a country of minorities, a country where majorities live as minorities and minorities live as majorities, or minorities which seek to be treated as a majority. In Harari region, Amaharas and Oromos are majorities, but they live as minorities; Amharas in Oromo Special Zone of Amhara Region live as minorities. We need to come up with a new conceptual articulation of who is minority in Ethiopia. I am not sure if we can take the general Ethiopian population as a reference point to define who minority is. Maybe we need also to look at historical injustices. For example, Tigray has been dominant in the political landscape of Ethiopia historically—do we consider them minorities or majorities? So, we need to probably reinvent the wheel here when it comes to the definition of minority.

A fundamental premise of your presentation is that the current conflicts in Tigray and Oromia are the result of a clash of nationalisms/visions. I find this assumption very simplistic; is the Tigray war actually against centralization or the perceived or actual exclusion from the center? Is it for self-autonomy? I don't think so. Is the problem in Oromia a fight for autonomy? Or is it an intra-ethnic struggle for power dominance?

The last four years also do not offer a clear picture of the current trend in our country as regards the federal exercise. You suggested that everything is being more centralized, but the official narrative of the government has been that it will maintain or even strengthen the multi-national, multi-ethnic federation. But the reality on the ground does not support your assertion. Take for example, the case of Sidama, which has become a new region added to the federation, and the South West Ethiopia Region is also coming into existence; both are evidence of more decentralization than centralization in Ethiopia. So, I do not think there is a clear picture which shows that the whole trend is towards centralization; what I rather see is a mixed picture: There is centralization at party level and decentralization in terms of the federal structure.

Dr. Semir Yusuf

I would like to emphasize the ironic nature of the current situation in Ethiopia. Two processes that are diametrically opposed are happening at the same time. There is the drive towards centralization and the drive to state disintegration. A very important manifestation of centralization is the rhetorical aspect of the regime. It also tends to amass power in the center and at the higher echelons of the ruling party. These are clear indications of the move towards centralization. But at the same time, we also witness very clear indications of state fragmentation. An example is the kind of debate and fragmentation within the PP itself. The breakdown of the command-and-control chain within the security apparatus or the entire security structure is a very interesting move against the drive for centralization. We also see the creation of deep states within the state structure: parallel state structures, especially in the economic and security sectors of the state. This is another very alarming move in the reconstitution of the Ethiopian state. Finally, the loss of the state's monopoly over violence in different parts of the country is very much contrary to the envisioned idea of further centralization of state power and party structures.

At this juncture I would like to point out the area where accommodation intersects with integration. We need to resurrect the state somehow; we do not need to see a failing state; we need a state to function in the way it should. The state should be revived to provide its basic function in society, while at the same time accommodating diversity and divergent perspectives.

Dr. Solomon Nigussie

My first question concerns the title and content of your paper. I found that there is divergence between the phrasing "from federalism to militarism" in the title and the discussion in the body. Is the title referring to the timeline or the nature of the federal setup? Second, there are some general statements in your analysis which require further details and data. For example, there are concerns around the centralization of the Ethiopian federation but: Who is centralizing and for what end? What are the parameters to gauge the centralizing tendency? You

seem to say that the Ethiopian empire of the beginning of the 20th century is coming back in the last four years. Is that what we see on the ground? Is there a clear pattern of this centralization tendency, compared to the clear prospect of fragility?

Third, is the Constitution, as it is, suitable to implement your recommendations? For example, can we realize checks and balance with the current constitution? Which one should be given priority: integration and ensuring rule of law, or addressing the inherent problems of the constitutional federal setup?

Finally, is centralization not the inherent nature of the state when its very existence is challenged? What can be done when the federal structure and the existence of the country is in danger? How do you balance these two exigencies?

Dr. Sisay Alemahu

Would you consider the possibility of de-ethnicizing political organization as a solution for what you call "the politicization of the cleavage," which would be a mammoth task? Could it be an option? Because the Constitution nowhere requires political organizations to be along ethnic lines, although it is a logical conclusion to the constitutional architecture.

Reply: *Prof. Assefa Fiseha*

Some of the questions relate to what Dr. Semir aptly articulated as the paradox of "the more you centralize, the more you lose the subunits." So, there is no contradiction in my presentation in stating that there is centralization of state power and the state is getting weak; the more the center is trying to centralize power it is losing physical control over a huge part of the country. This is a paradox we are facing. There is this clear, deliberate deinstitutionalization of the public sector in general but even more in the army and the security apparatus. The party system is also deinstitutionalized. So, as a result what you see is fragmentation of the state.

Another issue is deinstitutionalization of the public sector in the name of reform. We know public institutions were weak in Ethiopia but at least the Party (EPRDF) was there; you may not like it, but it used to function. Now the party itself is deinstitutionalized; the whole public sector is also deinstitutionalized. And in the end, the state-citizen relationship is completely falling apart. Subunits are reacting against the drive for centralization in a way that is defined in political science and security studies as state contraction; the Ethiopian state is contracting, shrinking. So, the threat of fragmentation is visible; that is why I wanted to talk about it seriously.

About minorities: if you want to know about subunit minorities there is an article I published in Utrecht Law Review which is freely accessible. The focus in my presentation here is on the center. What I am saying is that establishing legitimate, inclusive government in Ethiopia at the center becomes problematic because it is a country of minorities. The statistics are very clear; there is no ethnic nationality with a 50+1 demographic majority that also entitles it to be a democratic majority. At this point Dr. Adem Kassie, one of the conference participants, interjected and asked: If there is no majority can there be minorities? Prof. Assefa answered that all ethnic groups in Ethiopia are minorities. Dr. Adem again asked: How can there be a minority if there is no majority? Prof. Assefa replied saying: Because there are political elites who at one time centrally control the army, the security and the whole public sector in the name of, say, nation building or federalism, and control everything, and the rest of the minorities want to do the same; so, the cycle continues. Dr. Zelalem, another conference participant, interjected and asked whether Tigray was historically a minority or a majority, to which Prof. Assefa responded by saying: I am not going into that issue.

To Zemelak's question: It all depends on whether you agree with the premises that Ethiopia is deeply divided and what one needs to respond to the deeply mobilized cleavages. The level of mobilization of cleavages is a record within the African continent; I could not find any state in Africa with the level of mobilization of cleavages as chronic as in Ethiopia. So, it needs a peculiar

arrangement. The federalist promise could have addressed many of the problems, even with the institutional design gaps it has, but it was never implemented. At this point in time, we have reached a level where the existing constitution is no longer enough to respond to the issues we are now facing. So, we need a renegotiated social contract.

With respect to Dr. Solomon's comments, the paper develops clear indicators that show the trends of centralization, including the frequent use of "command posts" which suspend civilian rule, and I see no contest on those points. A distinction should be made between a desire for centralization from the center's side and lack of capacity to implement its desire owing to deinstitutionalization and the resistance to it from the regional states.

Addressing Winner-Takes-All Politics in Ethiopia: Inclusive Majoritarianism through Liberal Consociationalism

Dr. Adem Kassie Abebe

Abstract

As Ethiopia seeks to commence a national dialogue process, one of the key issues that is likely to prove controversial is what kind of democracy befits the country's context. While the overwhelming focus has been on self-determination and self-rule (and what that "self" should mean), the question of shared rule and its institutional manifestations are equally fundamental to the organization of politics and prospects for peace and constitutional democracy. This paper argues that a mechanism that empowers the opposition, notably liberal consociationalism—which leads to a grand coalition of parties, rather than identity groups—could provide a neutral and acceptable shared rule mechanism that could bridge sharp divisions among Ethiopian political forces. Such a system could not only satisfy demands for the recognition of identity groups, but also tackle enduring problems of winner-takes-all politics in Ethiopia. The key attraction of the proposal, and potentially its acceptability among contending forces, lies in its dynamism and avoidance of pre-determination, and the empowerment of the people to entrust power to whichever political ideologies and identities they may prefer in each election cycle.

Introduction

If one were to use a metaphor, democracy is a (football) game played once a number of ground rules have been agreed, including the shape and size of the pitch, the nature and basic organization of each team (will teams be organized [or be banned from organizing] according to height or region, or be free?), agreement on team names and insignia, manner of selection of the referee, and how awards

are disbursed among winners (will all the prizes go to the winner, or will the "losers" also get a share?). Without common understanding and agreement on these fundamental issues, there would not be a sensible game.

In similar vein, democracy requires agreement on fundamental ground rules: how should the state be organized (as a unitary, federal state system or something in between, and, if federal, the manner of carving out the member states), which is often conditioned by contesting narratives, historical understandings, and interpretations (along with perceived social relations), often shrouded in ideological/normative assertions. These include questions of how political parties should or should not be organized (should identity-based parties be allowed, prohibited, encouraged, or discouraged); what may or may not be a party or state emblem; agreement on official languages; the system of government (parliamentary, presidential, or something else); how should the bureaucracy, judiciary, election management body, and other democracy, rule of law, and accountability-promoting (fourth branch) institutions be organized, etc. Without a common understanding and sufficient acceptance (or at least acquiescence) on what I consider 'pre-democracy' issues, free, fair, and credible democratic competition is unimaginable. Without political settlement on these issues, the result is authoritarianism all the way, and very likely an unstable authoritarianism at that.

While Ethiopians have diverged over the game of democratic elections, the core challenge arguably remains disagreement on foundational pre-democracy issues. The reality of these differences has often masked and provided catchy and comprehensible vocabulary to, intra-linguistic and inter-linguistic group contestations over power.[1] To be sure, there have been nominal claims to settling these fundamental issues. Nevertheless, these claims are often merely imposed by

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[1]   This paper deliberately eschews the use of "ethnic" groups or "nations, nationalities and peoples," which are often used to describe the constituent peoples of Ethiopia. Instead, this paper uses "linguistic" groups as an accurate description. While the ideas of a nation or ethnic group are result of social and political construction, and therefore expressions of ambition or desire, the existence of linguistic groups is a social fact. The use of "linguistic" groups also avoids both the positive and negative political connotations associated with "ethnic" federalism or "nation."

the idiosyncratic historical narrative and ideologies of the dominant forces of the time as the undisputed "Ethiopian" narrative.[2] This is partly why the 1995 Constitution of the Federal Democratic Republic of Ethiopia is sometimes referred to as the "TPLF" constitution, after the Tigray People's Liberation Front (TPLF) that dominated the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) and midwifed the birth of the Constitution.[3]

Ethiopia and Ethiopians are yet to get a genuine opportunity to listen to, express, deliberate, and forge a settlement on the fundamental pre-democracy issues that must be resolved to set the stage for free, fair, and credible elections. It is in this context that civil society, opposition groups, and the broader public trumpeted calls for national dialogue, particularly following the April 2018 reshuffle within the EPRDF that catapulted Abiy Ahmed to the premiership. This was, however, not to be. Divisions and power struggles within the EPRDF, the failure of the newly minted Prosperity Party (PP) to ensure its cohesiveness and recognize, manage, and redress genuine grievances, the stubborn continuity of the tradition of authoritarian instincts, not only among the top political leadership but across the bureaucracy and law enforcement organs, some unscrupulous opposition leaders seeking to manufacture, exacerbate, and ride the wave of myopic linguistic (and increasingly religious) tensions—all these elements led to a virtual collapse of law and order and a still-ongoing full blown civil war, particularly in northern Ethiopia and parts of the Oromia region.

It is never too late to pursue the right course of action, and at the end of 2021 the Ethiopian government pushed through a legislative framework to establish a National Dialogue Commission, whose members were appointed in early 2022. The legislative framework formalized an earlier, primarily civil-society-led, initiative that set the course towards dialogue. The process of enacting the

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[2] Adeno Addis, *The Making of Strangers: Reflections on the Ethiopian Constitution* 38 Journal of Developing Societies (2022) 0(0), https://doi.org/10.1177/0169796X221125515

[3] Adem Kassie Abebe, "From the 'TPLF constitution' to the 'Constitution of the people of Ethiopia': Constitutionalism and proposals for constitutional reform," in Morris Kiwinda Mbondenyi and Tom Ojienda (eds.), *Constitutionalism and democratic governance in Africa: Contemporary perspectives from Sub-Saharan Africa* 51 (2013).

legislation establishing the Commission as well as appointment of the members of the Commission has generated justifiable rebuke and concerns surrounding the government's commitment to the dialogue, and the reluctance of key opposition constituencies to join the national dialogue.

If Ethiopia is to break the cycle of instability, conflict, and authoritarianism and enhance its chances of charting a path towards peace and democracy, the national dialogue process would need to succeed. While national dialogue processes tend to fail more than they succeed, Ethiopia doesn't have the luxury of squandering another opportunity. This national dialogue is critical to untie the knots that have undermined the prospects for peace in the country and sucked the energy out of democratic competition.

Ethiopia's future is decidedly federal. In addition to addressing the many symbolic and competing historical narratives and the form and institutional architecture of self-rule, Ethiopians would have to deliberate and generate agreement on the nature and institutional manifestations of shared rule through federal institutions. This paper interrogates a modality that the ruling PP has recently unveiled to operationalize shared rule: consociational democracy—an idea that some of the ruling party's ardent opponents have also supported.

1. Operationalizing Shared Rule: Consociational Democracy?

In addition to the broad list of symbolic and historical issues, the debate on Ethiopia's political institutional architecture has been dominated by the nature of the federal system the country should establish. Notably, this has focused on the *self-rule* aspects of federalism—how the member states should be organized, what kind of powers they should have, and the means and extent of protection of minorities.[4] An equally crucial aspect of federalism that has arguably been overshadowed and received less attention is the institutional architectures for shared rule at the federal level, which could broadly be organized along

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[4]   On the self- and shared-rule distinction, see Daniel J. Elazar, *Exploring Federalism* (1987).

majoritarian/integrationist or consociational lines. In practice, constitutional designs often follow negotiated outcomes, combining a mixture of integrationist and consociational elements.[5]

Integrationist systems may ignore, actively seek to disincentivize, or at times outright ban political mobilization along identity lines and may incentivize ideology/policy-based politics. The political system is largely based on the individuals, who are free to organize in whatever way in their private dealings, while the public sphere formally seeks to avoid politics based on identity.

Consociational systems, in contrast, recognize and even reinforce group identity as the basis of politics. According to Arend Lijphart, the father of scholarship on consociational politics, a classic *corporatist* consociational system combines a parliamentary system based on a proportional electoral system, an executive "grand coalition" based on guaranteed representation of (significant or politically mobilized) identity groups, an identity-based decentralized (federal) system, and veto rights for groups on matters considered fundamental to their interests.[6] In contrast, *liberal* consociational systems do not recognize or empower predetermined identity groups. Instead, liberal consociational systems entitle all political parties with an agreed-upon and notable level of electoral support to a position within the cabinet, principally in a parliamentary system.[7] Liberal consociationalism does not necessarily require mutual group veto (as is for instance the case in Northern Ireland, which combines both corporate and liberal versions of consociationalism),[8] nor a specific electoral system, although it arguably aligns better with a proportional electoral system. In any case, Lijphart

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[5] Sujit Choudhry, "Bridging comparative politics and comparative constitutional law: Constitutional design for divided societies," in Sujit Choudhry (ed), *Constitutional design for divided societies: Integration or accommodation?* 2 (2008).

[6] Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* 25 (1977).

[7] See generally Allison McCulloch *Consociational settlements in deeply divided societies: The liberal-corporate distinction* 21.3 Democratization 501 (2014).

[8] On Northern Ireland, see Ellen Louise Noble "A field study of consociationalism in the Northern Ireland Assembly: A moderating influence or threat to democracy?" (Independent Study Project, SIT Global, 2011) https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=2226&context=isp_collection.

has himself indicated that the mutual veto and proportional electoral system were secondary even to a corporate consociational arrangement.[9]

In the Ethiopian context, at the time of making of the current constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution) as well as today, it would not be an exaggeration to note that most of the political and intellectual discourse has focused on the scope of self-rule, notably on the formation of the regions (determining the "self" through language, historical connections, geography, culture, etc), the right to secession, protection of regional minorities, the status and governance of the capital Addis Ababa, and increasingly the issue of regional (special) "police" forces. This is perhaps the natural consequence of a political ideology preoccupied with the right to self-determination of linguistic groups, taken in a fundamental sense to mean the right to secession without limits.[10]

In contrast, the nature of shared rule has not attracted as much attention, both in political and scholarly discourse, with a few recent exceptions.[11] At a formal level, beyond the linguistic-based regional state organization, the FDRE Constitution adopts what could be characterized as a broadly majoritarian form of government at the federal level. Accordingly, the Constitution provides for a parliamentary system where the party or coalition of parties who wins a majority can establish a government. There is practically no enforceable specific expectation or provision as to the composition of the executive/cabinet, including, notably, being based on linguistic status. Instead, the Constitution broadly provides that linguistic groups have the right "to equitable representation in state and federal governments" (Article 39[3]). In addition, specifically in relation to the defense forces and as part

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[9] For Lijphart, "consociational democracy can be defined in terms of two primary attributes, grand coalitions and segmental autonomy—and two secondary characteristics, proportionality and minority veto." Quoted in Daniel Elazar, *Exploring Federalism* 23 (1987).

[10] Note that, under the FDRE Constitution, key aspects of the right to self-determination— including the right to secession—cannot be limited even in emergency situations. Compare this with the fact that the Constitution allows the limitation of, as well as derogation from, the right to life in emergency situations—see article 93(4)(c).

[11] Semir Yusuf, "Constitutional design options for Ethiopia: Managing ethnic divisions," Institute for Security Studies, Monograph 204 (2020), *https://issafrica.s3.amazonaws.com/site/uploads/monograph204.pdf*

of the National Policy Principles and Objectives, the Constitution enjoins that the composition of the national armed forces should reflect the "equitable representation" of linguistic groups (Article 87[1]). Perhaps one element that may make the current constitutional framework (corporate) consociational is the constitutional amendment provision whereby amendments to Chapter 3, which includes the right to self-determination including secession, require the approval of the legislative councils of *all* regional states, effectively granting each ethnic group with a regional state a veto over changes to the fundamental axis of the constitutional architecture (Article 105[2]).

The Constitution also provides for the representation of all recognized linguistic groups in the House of Federation (HoF) (Article 61). Nevertheless, the number of members from each group is determined largely in proportion to the size of their members, and the House is generally not involved in the regular legislative process. Accordingly, the representation of linguistic groups in the second chamber arguably doesn't detract from the fundamentally majoritarian organization of the democratic system at the national level.

In practice, however, the structure of the EPRDF effectively supplanted the formally majoritarian democratic system in favor of equal representation of the four parties from the four biggest regions of the country within the party structure and, largely, within the cabinet and other executive entities. Members of "affiliate" parties from the other five regions had no representation within the EPRDF, although some of them had nominal representation in the cabinet—essentially forming Arend Lijphart's "grand coalition" of representatives from the politically *significant* linguistic groups. This party structure was critical, as key decisions were made there and subsequently rubberstamped in the parliament. The overall objective behind the structure of the EPRDF appears to have been to empower the TPLF despite the small size of its constituency and establish what may be considered a "soft consociational" system without the potentially paralyzing consequences of formal rules or a group "veto" system. In any case, the reality within the EPRDF meant that, despite the formal presence of representatives from all members of the coalition, the TPLF, which midwifed the formation of the

EPRDF on the eve of the collapse of the Derg regime, dominated the key political, security, and economic institutions, and decisions were made in closed small circles.

Prime Minister Abiy Ahmed oversaw the replacement of the EPRDF, which was the coalition of linguistic based parties, with the PP, which is formally based on individual membership, although the party still features branches for each of the major ethnic groups with their own states. The transformation was vehemently opposed by the TPLF, which refused to dissolve itself and join PP, and by Oromo ethnonationalist forces (both in the ruling party and in the opposition). These groups have criticized the party as a centralization machine and as a tool to undermine the linguistic-based political dispensation. It therefore came as a surprise when PP unveiled the "consociational system" as its political manifesto following its first party congress in March 2022. While the details remain sketchy, the establishment of linguistic/regional branches of the PP and crucially the formal reference to a consociational system signals the continued framing of politics along linguistic lines, which contrasts with criticisms of a purported official pivot by the PP away from linguistic politics, which purportedly would culminate with the replacement of the Constitution. In comparison with the ERPDF, however, a key shift in the manner of selection of the powerful central committee (which sets up the executive committee) of the PP is that, while each linguistic/regional branch nominates members to the committee, the whole party congress ultimately makes the appointments. This shift may ensure that the PP's leadership would incentivize more moderate positions among the regional branches.

In fact, the call for a consociational system actually aligns with the views of the strongest critics of Prime Minister Abiy Ahmed and the PP. The TPLF has called for the strengthening of the linguistic-based system with guaranteed representation of ethnic groups at the national level, effectively constitutionalizing the (presumably modified) arrangement in the EPRDF. Similarly, Oromo opposition ethnonationalist leaders also seem to seek a strengthened linguistic-

based politics, possibly with a consociational system at the federal level, where linguistic groups are guaranteed pre-agreed political positions.

2. Consociational Democracy: What Kind?

As noted above, the consociational model purportedly adopted by the PP is yet to be clarified. It is also not clear whether the party will seek to transform its preferred arrangement into the constitutional framework, or whether it will simply pursue it through the Party as a supra-constitutional system, much like the EPRDF did.

If the arrangement would only remain as a PP rule, it would mainly focus on a grand coalition within a single dominant party and remain a "soft consociational" arrangement, without a proportional electoral system or, crucially, a veto for any specific linguistic group. Considering that the diversified membership in the grand coalition (including officials from different groups) will come from the same party, it would be difficult to qualify it as a genuinely consociational arrangement at all. The adoption of a rule of representation in the central and executive committees of the party based on the size of population of the regional "branches" of the party represent and the size of membership may be PP's way of operationalizing consociational democracy.

So far, it is unclear whether the ruling party will seek to elevate the arrangement to a constitutional or legal status, and may likely retain it as a party rule, which will allow it some flexibility in implementing the system. If the party were to seek to advocate for the constitutionalization of its preferred consociational system in the national dialogue, there could be two broad approaches.

The first, as indicated earlier, would involve a parliamentary system of government with a grand coalition cabinet wherein each linguistic group will get a pre-agreed share of ministerial positions, a proportional electoral system for the parliament, and veto rights for each group on matters of critical concern, alongside the (expansion of) current linguistically drawn regional states.

Beyond known criticisms of this corporatist conception of the consociational democratic model (notably its tendency to freeze and reinforce divisive identity politics)[12] the adoption of such a system in the Ethiopian context faces a number of practical challenges. First, Ethiopia is a country of minorities, and because of the sheer number of linguistic groups in the country, it would be impractical to guarantee cabinet positions for all groups, even with the assumption that these groups will each get one representative and that each is internally homogenous (which is not always accurate—for e.g., virtually all groups have individuals from different religious affiliations and of course genders).[13] Similarly, there is a danger that granting veto powers to so many linguistic groups would lead to political paralysis and immobility.[14] Indeed, consociational systems have only been implemented, and only partially, in countries with a handful of identity groups. One way around these challenges could be to guarantee cabinet positions and veto powers only to "significant" groups with populations above a threshold share of the national population. But such a solution would permanently exclude smaller groups from high positions and is thus likely to be rejected by them—they may instead prefer a soft consociational approach that at least formally leaves the route to cabinet open to everyone. Accordingly, the formal constitutional adoption of such a system may be disfavored.

If the PP is to seek the constitutional adoption of a new system, it could instead opt for what has been described as "liberal" consociationalism.[15] Lijphart contrasts the

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[12] For a discussion of the relative merits and problems of consociationalism (and centripetal systems), see generally Andrew Reynolds (ed), *The Architecture of Democracy: Constitutional design, conflict management, and democracy* 15-54 (2002).

[13] Goodin writes that a desire to ensure the presence of all groups would be impractical even in large groups such as legislatures, let alone in cabinets, which is the principal scene of shared power in consociational systems—see Robert E. Goodin, *Representing diversity*, 34 British Journal of Political Science 453 (2004).

[14] Donald L. Horowitz, *Ethnic power sharing: Three big problems*, 25 Journal of Democracy 5, 11 (2014).

[15] Arend Lijphart, "Self-determination versus pre-determination of ethnic minorities in power-sharing systems," in Will Kymlicka (ed.), *The Rights of Minority Cultures* 275 (1995); Brendan O'Leary, "Debating consociational politics: Normative and explanatory arguments," in Sid Noel, (ed.), *From Power-Sharing to Democracy: Post-conflict institutions in ethnically divided societies* 3 (2005); Allison McCulloch "Consociational settlements in deeply divided societies: the liberal-corporate distinction" 21.3 *Democratization* 501-518 (2014).

genuine "*self*-determination" quality of this arrangement, as opposed to the "*pre*-determination" feature of corporatist consociationalism, and he—and a large majority of scholars—tends to favor the liberal version.[16] Liberal consociationalism recognizes but de-essentializes linguistic (or religious, or any other) identity as the basis of political organization. It is a form of recognition with partial and conditional empowerment of identity (whether linguistic, religious, regional, or other) based on the inevitably dynamic support of voters.[17]

In liberal consociationalism, all political parties that receive more than a predetermined share of the national vote or seats in the elected federal parliament would be entitled to positions in the cabinet, making the cabinet a grand coalition of political parties, rather than identity groups. Despite its categorization as a consociational arrangement, this system effectively empowers opposition parties, whatever their color, rather than identity groups. It simply reimagines democracy in an inclusive majoritarian sense, rather than through a pure majoritarian arrangement where whichever party wins an electoral majority automatically gets to govern while the opposition represent their constituencies and focus on holding the government accountable, presenting alternative policies, and serve as governments-in-waiting. The system instead empowers and incorporates the main political groups in actual governance in proportion to their electoral support. Nevertheless, in plural societies, some major parties can be expected to organize along linguistic (or religious or regional) lines, in which case the cabinet can be expected to reflect the broader identity composition of the country, rather than simply a single identity. While it would be possible to imagine a scenario where parties that secure representation in the cabinet could be required to ensure the linguistic (or religious or regional) representativeness of their nominees to cabinet, such a rule would automatically exclude identity-based parties,

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[16] John McGarry & Brendan O'Leary, *Iraq's Constitution of 2005: Liberal consociation as political prescription* 5.4 International Journal of Constitutional Law 670, 676 (2007).

[17] For a related idea in the context of South Africa, see Christina Murray and Richard Simeon, *Recognition without empowerment: Minorities in a democratic South Africa* (2007) 5.4 International Journal of Constitutional Law, 699. Liberal consociationalism would actually empower identity groups, but only partially and only subject to public support of the parties that organize along linguistic or other lines. In addition, liberal consociationalism can apply alongside the linguistic carving-out of regions/states which actively empower identity groups.

undermining the neutrality of the arrangement and reducing its acceptance among ethnonationalist groups, and therefore its adoptability.

The main advantage of a system empowering opposition parties is that it transfers the power of self-determination from pre-determined and static identity groups to voters, who would have the flexibility to consider their identity (whether linguistic, religious, regional, or other) as only one factor in their voting decisions. By making the voters the deciding factors in each election round, it could be accepted as a neutral compromise among political groups, whether they favor or disfavor identity-based politics. The system can also largely be combined with a plurality (such as the first-past-the-post), proportional, or mixed electoral system, as well as with a parliamentary or semi-presidential system of government (and potentially even with a presidential system). While a proportional system could arguably encourage identity-based parties, the threshold to join the cabinet could provide a counter-balance incentive to cross-ethnic parties or coalitions. Perhaps a major challenge with this system is that it could structurally provide members of the two biggest linguistic groups—Amharas and Oromos—practical options of organizing either along linguistic or other lines, while members of smaller groups would structurally be incentivized to cooperate with other groups. This consequence may not necessarily be fatal, especially if the federal states are organized along linguistic lines, which would provide even smaller groups a platform for organizing along identity lines and articulating and defending their interests, i.e., the responsibility to protect group interests would be transferred from political parties to regional governments.

In addition to having the potential to serve as a compromise arrangement, the liberal consociational system would enable various parties to work together in the same cabinet, which could in the long term forge a cooperative and deliberative habit necessary for a thriving democratic dispensation. The presence of multiple parties in the cabinet could arguably increase the chances of government stalemate on policy issues, as has been broadly argued in relation to consociational systems. Nevertheless, if the national dialogue process helps resolve the key symbolic and institutional contestations underlying political and security disputes, differences

on ordinary political, social, and economic issues are unlikely to evade compromise. In any case, the main party or coalition of parties can be expected to cobble together sufficient majorities within the cabinet whenever broad consensus proves elusive, as liberal consociational arrangements do not necessarily grant veto rights to any group or party.[18] Nevertheless, even when decisions are taken through a vote, losing parties and their supporters can be sure that their voices have been heard at the highest level, which would increase the chances of consent among losers.[19] Indeed, one key advantage of liberal consociationalism is that at least some of the opposition parties would win positions, which reduces the winner-takes-all mentality, and therefore gives such parties a stake in recognizing electoral outcomes, thereby reducing the possibilities of violence.

If the PP would maintain consociationalism as a working arrangement within the party rather than seeking to constitutionalize or otherwise legalize the arrangement, it is possible that the current, largely majoritarian, arrangement for shared rule could continue at the formal level. The current arrangement has the advantage of leading to a relatively coherent central government, which a government formed based on a liberal consociational arrangement may not always deliver. In such a case, the composition of the cabinet and other aspects would be open to pre- and post-election political negotiations. The inclusion of opposition parties in the cabinet will also largely fall to the discretion of the ruling party or coalition.

Whether or not a consociational liberal system is constitutionalized, Ethiopia should consider strengthening the position of opposition parties to not only effectively serve their representational, accountability providing, and government-in-waiting roles, but also include them in governance. This could, for instance, take the form of public funding to opposition parties, guaranteed equitable access to publicly-funded media throughout the year (rather than merely

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[18] See McGarry and O'Leary, *supra* note 16, 692—they argue that "Liberal consociationalists value consensus and stability over decisiveness in divided societies because they believe that decisiveness without consensus can lead to disaster."

[19] Christopher Anderson, *Losers' Consent: Elections and Democratic Legitimacy* (2005).

during election periods), and, crucially, the constitutional recognition of a Leader of the Opposition, alongside publicly provided resources and secretariat, as well as security and diplomatic privileges. Constitutions around the world have adopted creative and systematic ways of promoting what may be considered "inclusive" majoritarianism that eschews winner-takes-all politics, thereby enhancing the vitality and resilience of democratic systems.[20] Ethiopia could consider a systematic constitutional and political arrangement combining both liberal consociationalism and broader ways of operationalizing inclusive majoritarianism.

Conclusion

This short contribution has sought to shift attention that is often focused on self-rule aspects of Ethiopia's political dispensation to equally important arrangements for shared rule. Whatever the fate of the national dialogue process, in view of the political dynamics, the organization of political parties, and the inertia of the status quo, the federal arrangement with regional states drawn along linguistic lines can be expected to stay and perhaps be reinforced with the formation of additional states. To be sure, even if the linguistic-based regions remain, the national dialogue could still be considered successful if it helps to build an acceptable political settlement among a critical mass of Ethiopians around: a narrative of the country's past and symbolic issues (e.g.. the flag); the identity of the nation (including potentially by recognizing both Ethiopians as a whole and each linguistic group as a "people");[21] the

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[20] Adem Kassie Abebe, *The Vulnerability of Constitutional Pacts: Inclusive majoritarianism as protection against democratic backsliding,* in *Annual Review of Constitution-Building,* (International IDEA, 2019), https://constitutionnet.org/sites/default/files/2021-01/annual-review-of-constitution-building-2019.pdf; Elliot Bulmer, "Opposition and legislative minorities: Constitutional roles, rights and recognition," (*International IDEA Constitution-Building Primer 22,* 2021), https://constitutionnet.org/sites/default/files/2021-07/opposition-and-legislative-minorities-constitutional-roles-rights-recognition.pdf.

[21] The apparent tension, even contradiction, in such a solution need not make it unacceptable. In fact, in divided societies, vagueness and deferral on issues of the identity and value of the state are common—see generally Hanna Lerner & Ash Bali, *Constitutional Design Without Constitutional Moments: Lessons from religiously divided societies* 49.2 Cornell International Law Journal 227 (2016).

fundamentalism regarding the right to self-determination (especially the right to secession); the recognition, rights, and systematic and effective representation of all groups (notably political and linguistic minorities) at the regional level (potentially through the application of liberal consociationalism at the regional level); and around the status and governance of Addis Ababa. Meaningful compromises on these could make the linguistic based federal structure palatable even for those who vehemently reject it.

These issues related to self-determination have received significant attention in the political and scholarly discourse from Ethiopians and non-Ethiopians alike. This short contribution has sought to highlight an important area—shared rule and the form of democracy at the national level—that is necessary for a complete understanding of the full universe of issues that Ethiopians need to grapple with to move towards a sustainable peace and inclusive democracy. To be sure, Semir Yusuf has developed an excellent analysis and outlined potential options— without proposing a particular model—in designing both self- and shared-rule aspects of federalism in a diverse polity by combining elements of consociational, centripetal, and integrationist ideas to manage pervasive ethnic divisions.[22] In another contribution, the author of this paper (Adem Kassie Abebe) has outlined potential ideas on how to structure Addis Ababa in an inclusive and autonomous manner, largely drawing on ideas from these divergent concepts of liberal consociationalism, and has suggested that experience with such an arrangement in the governance of Addis Ababa could provide useful insights for reevaluating the thinking and design options at broader national and regional state levels.[23]

In essence, the core point is that, despite the recent announcement that the PP has adopted consociational democracy as its organizing principle, this is likely to remain a party rule—with little prospect of elevation to a constitutional/legal rule. Even if it becomes a constitutional or legal rule, it would likely take the form of a

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[22] Semir, *supra* note 11.

[23] Adem Kassie and Amen Taye, 'One single capital for a plurination: Building an autonomous and inclusive Addis Ababa', in Adem Abebe and Amen Taye (eds), *Reimagining Ethiopian Federalism*, Ethiopian Constitutional and Public Law Series, Volume 10 (2019), Addis Ababa University.

softer version of inclusion rather than Lijphart's sense of a formula-based grand coalition and mutual veto. This is primarily because the system is impractical in view of the sheer number of identity groups in Ethiopia. It is conceivable that the biggest groups could be granted a sort of soft share of power in the decision-making bodies of the Party, but even such a flexible arrangement is likely to be left open regarding the cabinet and other key state institutions. In any case, a consociational arrangement within the ruling party is unlikely to address demands for inclusion, as some groups would see purported representatives from their group as ineffective and even nominal. Despite the essentialization of linguistic identity among ethnonationalist forces, intra-group contests have often led to outbidding efforts and denial of the linguistic identity of rivals, which appears to run counter to the essentialism that seeks to portray a unified and cohesive identity.

A more likely approach is to pursue reforms towards the inclusion of the opposition in governance, including through liberal consociationalism as outlined in this brief paper.

The central attraction of the proposal, and potentially key to its acceptability among contending forces, lies in its dynamism and avoidance of pre-determination, along with the empowerment of the people to entrust power to whichever political ideologies and identities they may prefer in each election cycle. Furthermore, the proposed suggestions can work in both parliamentary and presidential systems of government, or in any other system. The arrangement would partly eschew controversies around the population size of linguistic groups, as the proposed system would ensure representation based on popular support in each election cycle rather than the population size of any specific group. Moreover, while the proposals are mainly focused on the national level, the ideas can be equally useful to consider in organizing regional states. Indeed, the author of this paper first proposed these ideas for the governance arrangement for Addis Ababa.

This paper has mainly focused on the federal executive and principal legislature. There are of course other platforms for the direct representation of linguistic and other identity groups. One option is the second chamber, as Ethiopia currently has. Secondly, regional and other lower-level governments are perhaps more appropriate fits to represent the interest of groups than national representatives elected on partisan basis. But this would require a channel of communication where the views of regional and other levels of government are sought out and allowed to feed into the conversations in national legislative and executive decision-making processes. Intergovernmental deliberation platforms, involving not only regional but also local governments, are therefore crucial, as is the manner of representation emanating from liberal consociational arrangements considered in this paper.

DISCUSSIONS

Abdulatif Khedir — Discussant

In your paper you consistently used the term "linguistic groups" as opposed to the commonly used term "ethnic groups;" are you being a liberator on this and is it intentional? Because I would assume that some may perceive describing segments in the divided Ethiopian society as simply linguistic as a bit reductive. So, if you are using the term "linguistic group" deliberately I think you need to say a bit on that.

The other point is, from the different segments of society, maybe because it is the most salient, there is an exclusive focus on what you call "linguistic groups" and what others call "ethnic groups," but what about other segments such as religion? Of course, there have to be people mobilized along this line but can you take the current mobilizations, antagonisms, and conflicts along religious lines as an analytical angle, dictating our desired options when discussing consociationalism and consociational power sharing?

Another point is that you focus on the shared-rule aspect of consociationalism, but segmental autonomy is also a primary feature of consociationalism; I think you need to give it more space in the paper. This is important because segmental autonomy in consociational sense can be implemented in a non-territorial way. So far, our country's political discourse is all about autonomy for territorially organized groups, but there are a lot of issues that cannot be addressed simply by territorial arrangement. Take for example the case of groups who are not territorially settled in one area or whom we call dispersed minorities; they may enjoy segmental autonomy in the form of legal pluralism or devolving certain affairs to communities, and this can be important to deal with non-territorial autonomy issues.

Another focus of your paper is power sharing or grand coalition as one basic feature, mostly in the parliamentary sense. But consociationalism can also be implemented in a presidential sense. And a lot of political parties and groups think that the presidential system might be good; there is good chance that the future in Ethiopia is a presidential system. Given this prospect, it may be helpful if you reflect on what consociational elements would be appropriate in a future presidential arrangement in Ethiopia.

Another point you raised is the difficulty of organizing grand coalitions given the sheer number of linguistic or ethnic groups, with other potential dimensions. One interesting suggestion I remember from the late Professor Mesfin entails guaranteed seats in cabinet for groups that number a million and above and, for the others, having cabinet seats through rotation. It is good to reflect on this.

We are so far talking about consociationalism at the national level. But it can also be very important at the subnational level. Whether the current federal structure stays intact or is redrawn along territorial lines, or even further along ethnic lines, we will have permanent minorities, especially at the regional level. It is important to consider how consociationalism can be implemented at the subnational level to cater to the needs of these minorities. Further, if the consociational arrangement is tried and succeeds at the regional level, I think it can be a good lesson to

implement it at the federal level. There are also a few examples. I think Harari as well as Dire Dawa (the rotation of the mayoral position between the Somali and Oromos) are interesting to closely look at; although they are not strictly consociational arrangements, they have elements or features of it.

You also raise the issue of proportionality, not only in the representation in the grand coalition that is in the executive but also in the civil service and all other organs of the State, including the judiciary. But there is a challenge in numbers. Numbers are important in proportional representation arrangements, because when you are talking about proportionality you are talking about the allocation of seats and benefits depending on the number of people that some particular political group identifies itself with. But population numbers in this country are increasingly contested. Each ethnic group claims to be huge in number, so much so that it will make Ethiopia a country of around 300 million people if we accept all the claims made by the elites of the various ethnic groups as to their population size. Given this contest about numbers, the implementation of proportional power sharing arrangement would be problematic.

Finally, one of the reasons why I like the idea of consociational power sharing at the center is, even if there is a centralizing tendency as emphasized by other presenters, consociational power sharing will help to ensure the legitimacy of the center.

Dr. Zelalem M. Teferra

When Adem started his presentation I wished he would close his presentation with a quote from an article by Dr. Dereje Alemayehu titled "ጀግና የማያስፈልጋት ሀገር የታደለች ነች (ǧagenā yamāyāśefalegāte hāgare yatādalače nače /Lucky is the nation that stands in no need of a hero (a saying attributed to Bertolt Brecht)" in which he states that Ethiopia will never be peaceful until "በቁጥር መበላለጥ የመብት መበላለጥ የማይኖርበት ሀገር አስካለፈጠርን ድረስ (baquṭere mabalālaṭe yamabete mabalālaṭe yamāyenorebate hāgare 'eśekālefaṭarene deraśe/ we build a nation where population size [of political groups] doesn't make difference for protection of

rights." I think it is good to keep this in mind while discussing consociational governance.

Abdulatif Kedir

Additional point on Adem's presentation: In relation to centralization, I feel that there is a deserved critical appraisal of how the centralization process was conducted and how it resulted in the suffering or problems of the country. But I think there are at least two reasons why we also need a legitimately stronger central government. One issue that we have overlooked is the issue of economic development; poverty in this country is the real problem and we need a strong and committed government at the center to address this problem without neglecting the subnational units. The other is the issue of minority protection. Some suggest confederal arrangement to this end, but I do not see an alternative beyond a strong but legitimate and representative central government as a guarantor of minority rights protections in the sub-national units. Some proponents of the current federal arrangement suggest that further decentralization along ethnic lines will solve the problem, which I do not think is the case. Others think redrawing the federal units will solve the problem. In any event we will have subnational minorities and I think a strong center is a guarantor of their protection because I think most sufferings and violations of rights in recent years are attributed to weak central government.

Dr. Mulugeta Mengist interjected and said: instead of "strong government" I would say "effective central government;" when we say strong government it tends to be forceful, but being forceful does not translate into effectiveness.

Dr. Getachew Assefa Woldemariam

When you talked about inclusion and empowering the opposition, you said that the effective way of doing it is to include all regional and subregional government institutions. The question I have is: Do you make an assumption that governments from regions are politically or representationally diverse and well-representative, or are you talking about the kinds found in the current arrangement? If you are

talking about in the latter sense, given the similarity of the occupants of the various assemblies, would that make any difference? Are you assuming a recasting of the current arrangement in favor of democratic diversity in terms of political representation for it to work? Other than that, how can your suggestion that there must be a government that solves society's problems work when there is no representative government?

Dr. Abadir M. Ibrahim

I want to raise an important point to you all. One thing we have not talked about, and this is something I constantly wonder about, is the importance of local democracy, city democracy and so on. I understand the importance of the center. But I have the sense that democracy really happens at the local level, and it trickles up to the center rather than trickling down from the center. Are we ready for pluri-experimentation of different types of local governments? Usually solutions come from the center, i.e., policies are designed at the center and go to the local level to be implemented. Even if it comes from the center, are we ready for differentiated experimentation? We have to try a bottom-up approach to democratizing the state.

The other point I want to emphasize is the participatory, big-tent kind of political process from the point of view of transitional justice. It is important not only in the long run, but also in the short run in the process of state formation, which is itself the outcome of a transitional process. There are always going to be losers and winners in constitutional design but when you have significant actors in society that become losers, that means you will have even more permanent losers going beyond minorities (with non-minorities becoming losers) because they feel that they did not, or in fact did not, participate in the constitution-making process, or their interests were not reflected sufficiently in the process.

The Continuing Quest for Inclusive Democratic Governance in Ethiopia

Dr. Getachew Assefa Woldemariam

Abstract

As early as the 18th Century, James Bruce, a European traveler, observed that bad government was the most important source of the problems that plagued Ethiopian society. Centuries on, political and ethnic mistrust—and the polarization, insecurity, human rights abuses, and armed conflict that accompany them—characterize the Ethiopian body politic. Rule of law and democracy are far from taking root. This paper—pointing out the most outstanding governance deficits of the governments of Emperor Haile Selassie, the Derg, and EPRDF-cum-PP (Prosperity Party)—argues that the lack of inclusive democratic governance remains at the core of Ethiopia's sociopolitical crises. It will offer suggestions on democratic governance options that, if adopted, will help deal with Ethiopia's longstanding political ills.

Introduction

Ethiopia has existed as a polity in different sizes and shapes for centuries. It largely acquired its present geographical and socio-demographic composition towards the end of the 19th century and beginning of the 20th century.[1] Until the 1974 popular Revolution swept the last monarch, Emperor Haile Selassie I (r.1930-1974), out of power, the main state power had been monarchical, with various kings or kings of kings succeeding one another at the helm of state power. Before the largely successful efforts of Emperor Menelik II (r. 1889-1913) to bring the diverse semi-sovereign entities inhabiting present-day Ethiopia under his central

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[1] See Bahru Zewde, *A History of Modern Ethiopia: 1855-1991* (2001).

political authority, in most cases these entities had different types of traditional local governance, largely recognizing the suzerainty of the distant monarch who often was represented by his officials in the various localities.[2] The spheres of influence of these semi-sovereign entities had never been constant, expanding and shrinking just as the territories and peoples under the direct, close control of the monarch had as well. It suffices to mention here that the expansion and conquest in the 16th and early 17th centuries of the Oromo clans and Ahmed Ibn Ibrahim (more commonly known as "አሕመድ ግራኝ - *'aḥemade gerāñe*" or Ahmed the left-handed) traversed the entirety of Ethiopia, including the present-day Eritrea. They conquered and were in turn conquered by different locales, advancing and being pushed back until the balance of power levelled out to produce the present territorial distribution of the dominant ethno-linguistic groups of the country.

The centralization of power by successive governments, starting with Emperor Menelik II, ignored local interests and uprooted local authorities and modes of governance. The centralization of power was intensified under Emperor Haile Selassie, especially from 1942 onwards to the end of his rule in 1974. The Derg that came to power following the 1974 Revolution took the centralization of power to the highest level, a decision no doubt was intensified by its leftist political orientation.

The TPLF (Tigray People's Liberation Front), the most committed of the anti-Derg movements, waged a consistent armed struggle against the Derg till 1991. The EPRDF (Ethiopian Peoples' Revolutionary Democratic Front), the coalition of four that the TPLF created and led, finally overthrew the Derg and assumed power in May 1991. As shall be elaborated later in this paper, the TPLF held the view that Ethiopia's political ills resulted from the oppression of other nationalities by the Amhara (particularly the Shewan Amhara). Once it assumed power, it quickly moved to attempt to implement its political program and the ideology it

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2 For example, historical records show that during the first half of the 16th century, the monarch's representative in different parts of the country was known as "አዝማች - *'azemāče*"; ይልማ ፌሬሳ፡ የኢትዮጵያ ታሪክ በአስራ ስድስተኛው ክፍለ ዘመን (Yilma Deresa, ya' i'teyopeyā tārike ba 'aśerāśedesetañāwu kefelazamane [in Amharic, which translates into English as: Yilma Deresa, *A History of Ethiopia in the 16th century*] 227 [2006]).

held, which originated from its founders' student days at the Haile Sellassie I University (now Addis Ababa University) in the 1960s and early 1970s. These included reconstituting the country as a federation of nationalities, and granting each of them an "unconditional right to self-determination," including the right to a "full measure of self-government" within the federation and the right to secession if any of the nationalities so wishes.

In this paper, I shall attempt to refute the diagnosis made by the TPLF and the like that the main political problems of Ethiopia emanated from national oppression. I shall argue that the lack of inclusive democratic governance which affected every Ethiopian citizen, regardless of the ethnic group to which they belong, is the main reason for the socio-political ills of the country.

1. Explaining Ethiopia's Political Crises of the 20th Century

Scholars—both local and international—and political actors sought to explain the political crises of modern Ethiopia from different perspectives. The diagnoses of the problems made were also followed by the prescription of solutions for the diagnosed problems. I shall briefly summarize these diagnoses as follows.

The first thesis explaining the political crises of Ethiopia is a class oppression thesis. The thesis views the problems of the Ethiopian masses—wherever they might be located—as emanating from the oppression of the peasantry and those other classes exploited by the ruling/feudal/semi-bourgeoisie class. This latter class is composed variously by the nobility, the aristocracy, the privileged soldier-settlers in the southern part of the country, and other landlords. Although the oppressor class was not ethnically defined (nor was it an ethnic-exclusionary group), the point put forth was that a "state-related" oppressor class did evolve, especially in the south.[3] The proponents of this view, mostly originating from the student Marxists, including the Ethiopian People's Revolutionary Party (EPRP),

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[3] Getachew A. Woldemariam, *The Constitutional Right to Self-Determination as a Response to the "Question of Nationalities" in Ethiopia* 25.1 International Journal on Minority and Group Rights 1, 31-32 (2018).

argued that ethnic and regional irredentism by ethnic nationalists was an expression of local resentment toward the economic exploitation and political autocracy imposed by the imperial regime.[4] We need to be reminded in this connection that the military government (Derg) which subscribed to Marxism-Leninism also stated that "ethnic contradictions have no objective existence once class contradictions are resolved."[5]

The second explanation for the country's political problem depict it as a problem of colonial relation between the Ethiopian state on the one hand, and on the other Eritrea and the southern societies that were incorporated into the state during the end of the 19th century and the beginning of the 20th century. This explanation was first proffered by the Eritreans in the 1960s when, as earlier noted, the Ethio-Eritrean federation was dissolved by Emperor Haile Sellassie in 1962.[6] This view is also entertained by some Oromo intellectuals associated with the Oromo Liberation Front (OLF),[7] which itself, at least previously, subscribed to this proposition. Members of the Ogaden liberation movement and its ideologues also subscribe to this position.[8]

As an explanation of the state crises of the 20th century, the colonial thesis does not have many proponents other than the ones indicated above. Though I cannot go into the detail here, it is my view as well that one can show its hollowness drawing on abundant socio-historical facts and evidence. This thesis completely denies the centuries of interaction between the Oromos —as conquerors and as conquered; as victors and as losers; as expanding and being pushed back; as

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[4] Christopher Clapham, *Post-war Ethiopia: The Trajectories of Crisis*, 120 Review of African political Economy 181, 182 (2009).

[5] John Markakis, "Ethnicity and Conflict and the State in the Horn of Africa" in K. Fukui and J. Markakis (eds.), *Ethnicity and Conflict in the Horn of Africa* 217, 235 (1994).

[6] Merera Gudina, *Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy, 1960–2000* 100 (2003).

[7] See, eg., Asafa Jalata, *Oromia and Ethiopia: State Formation and Ethnonational Conflict, 1868–1992* (1993); Bonnie K. Holcomb and Sisai Ibssa, *The Invention of Ethiopia: The Making of a Dependent Colonial State in Northeast Africa* (1993).

[8] Teshale Tibebu, *Modernity, Eurocentrism, and Radical Politics in Ethiopia, 1961–1991*, 6.4 African Identities 345, 347 (2008).

traversing the whole country including the present-day Eritrea—and other linguistic communities of Ethiopia in war, in peace, and in trade, because of other manmade calamities and natural disasters. As Professor Clapham averred, this claim can be dismissed as "ridiculous."[9]

The third thesis explaining the 20th century state crises of Ethiopia is what we can call the "power and resource inequity thesis." The state power that seems to be held in the cultural and religious overtures of the Amhara has neglected other nationalities, leading them to believe that there is an ethnic dimension to the political exclusion.[10] As Clapham observes, this view understands that although the Ethiopian system of rule and power in practicality functioned in an inegalitarian manner, "it carried no 'premise of inequality.'"[11]

The fourth explanation of the state crises is the national oppression claim. This claim singles out the Amhara as the oppressor group and the other nationalities as the oppressed. This thesis accuses the Amhara of promoting its culture and language at the expense of all other cultures and languages. It is held here that, as a result of the identification of the Ethiopian state with the Amhara, all other groups were required and forced to assimilate into the Amhara cultural ethos in order to be recognized as Ethiopians. The most outspoken of the proponents of this position, the TPLF, maintains that the "Shewa" Amhara have exercised a monopoly over political and economic power in Ethiopia during the past century to the exclusion of all other groups.[12]

The TPLF and other ethnic-based movements that emerged in the early 1970s sprang from among the student revolutionaries who, during the second half of the 1960s, had embraced leftist political orientations. As Professor Bahru (2014) observes, the issue of nationalities had been discussed by sections of the student

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[9] Christopher Clapham, *Rewriting the Ethiopian History*, 18 Annals de'Ethiopie 37, 50 (2002).

[10] Markakis, *supra* note 5.

[11] Christopher Clapham, *Transformation and Continuity in Revolutionary Ethiopia* 22 (1988).

[12] See interview by Paul B. Hanze with Meles Zenawi (1990),
      https://tassew.wordpress.com/2012/06/17/meles-zenawis-interview-with-paul-henze-1990/

revolutionaries from around 1967, in connection with skirmishes between students on the basis of regional origin, such as between Eritreans and non-Eritreans. Randi R. Balsvik (2005) also notes that the national question was discussed among the Ethiopian student organizations in America and Europe before the famed piece by Wallelign Mekonnen on "the question of nationalities in Ethiopia" made its appearance in 1969. As Bahru and Balsvik observe, the interpretation of the sources of Ethiopian social ills became hotly debated among those student revolutionaries who saw the main issues as class problems on the one hand and those who held the view that national oppression was the main culprit on the other.[13]

The sections of the student revolutionaries that held the position that Ethiopia's political, social and economic problems emanated from national oppression maintained that the country's problems could be resolved by dealing with the issue of national oppression.[14] Most of the students that branched out into the various political organizations in the early 1970s, including the TPLF, had already adopted Marxism-Leninism as their governing ideology in the late 1960s.[15] The national oppression thesis was given a cogent intellectual expression by the earlier noted piece entitled "The Question of Nationalities in Ethiopia" presented by Wallelign Mekonnen. He opined that the Amhara and, to some extent, the Amhara-Tigre have dominated Ethiopia. According to him, what is considered to be the Ethiopian culture, language, religion, and national dress are all the culture, language, religion, and dress of the Amhara (and to some extent the Amhara-Tigre). It is possible to take issue with what Wallelign so confidently asserted. For one, this obviously does not accurately reflect the accommodative approach

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[13] These two positions and other positions advanced by various components of the student revolutionary groups and the party formations that sprang from them will be discussed later in this paper. See Bahru Zewde, *The Quest for Socialist Utopia: The Ethiopian Student Movement c. 1960-1974* (2014); Randi Ronning Balsvik, *Haile Sellassie's Students: The Intellectual and Social Background to Revolution, 1952-1974* (2005).

[14] The two Eritrean movements, the ELF and the EPLF, in fact adopted a different position regarding the relationship between Ethiopia and Eritrea, namely, that the former colonized the latter and that the struggle therefore was a struggle of decolonization.

[15] Andargachew Tiruneh, *The Ethiopian Revolution, 1974–1987: A Transformation from an Aristocratic to a Totalitarian Autocracy* 29 (1993).

exercised by the political power—in both social and political spheres—towards all linguistic groups in the country. Second, the association of political power squarely with the Amhara and placing the blame on the Amhara for the policies of the Ethiopian state, which should be viewed separately from the Amhara, misses a lot of points.

In any case, one should note the striking similarity between how Wallelign framed his arguments in the piece referred to above (and how these arguments were subsequently developed and practiced by the TPLF), and the Marxist[16] (but more so Leninist and Stalinist) approaches to the question of nationalities. As the studies conducted on the Leninist-Stalinist theory of the question of nationalities show, the theory took a definite shape beginning in 1903 more broadly for the purpose of intensifying the socialist revolution against Tsarist Russia.[17] The theory framed the Russians as oppressor and the various regional and linguistic communities under the Tsarist Empire as oppressed groups. As such, therefore, Lenin and Stalin promised independence to those geographical and linguistic communities under the Tsar in order to garner their support for the Revolution.

Although Lenin endorsed the right of nations to secession, he was against supporting separatist movements in principle. He is often quoted as saying that "the right of divorce is not an invitation for all wives to leave their husbands."[18] In reality, Marxism-Leninism holds that communism and nationalism are ultimately incompatible. However, Marx and Lenin believed in the necessity of appealing to nationalism in the prerevolutionary period. They condoned the manipulation of the national question to further the revolutionary movements. In fact, the Leninist national policy asserts that "the struggle to overcome nationalism in the

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[16] Graham Smith says that classical Marxism had little to say about the national question and offered no advice on the issue of national self-determination (Graham Smith, "Nationalities Policy from Lenin to Gorbachev" in Graham Smith [ed], *The Nationalities Question in the Former Soviet Union* 1, 2 [1990].

[17] See Walker Connor, *The National Question in Marxist-Leninist Theory and Strategy* (1984); Smith, *ibid.*

[18] Smith, *supra* note 16.

communist movement is the most important task of Marxist-Leninists."[19] So the Marxist-Leninist theory holds that nationalism—loyalty to one's nation or nationality—on the part of the masses is acceptable in a prerevolutionary situation but must give way to proletarian internationalism or socialist patriotism in the aftermath of the revolution.[20]

Another anomaly about the question of nationalities in Ethiopia is the lack of clarity between three key terminologies: nation, nationality and people. In the Marxist-Leninist discourse, some kind of distinction has been drawn. Thus a "nation" was described as "large," "historical," and "great," linked to peoples of "undoubted vitality" such as Poles, Germans, Italians, and Hungarians. The discourse thus holds that there is no doubt about the right to an independent statehood of such peoples.[21] Whereas a "nationality" was described as "people in [the] pre-nation stage of development; people who for whatever reason have not yet achieved (and may never achieve) the more august station of nationhood," it might also refer to a segment of the nation living in another state severed from its kin-nation.[22] Nationalities therefore cannot be entitled to independent statehood.

The TPLF, which drove home the idea of the right to self-determination of nations, nationalities, and peoples (NNPs) in Ethiopia, chose to use these terms interchangeably (defining them identically), thus bestowing all elements of the right to self-determination that it constitutionally recognized on each one of them. It is therefore difficult to pin down the notion as adopted by Ethiopian ethno-nationalists because, certainly, it is not articulated in the same way as it is in Marxism-Leninism, as the latter maintained distinctions between the notions. Nor have the Ethiopian ethno-nationalists ever adopted their own definitions of the terms. The constitutional dispensation inherited from the TPLF's notion of the

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[19] Connor *supra* note 17, 11.

[20] *Ibid.*, 49.

[21] *Ibid.,* 12

[22] *Ibid.*

question of nationalities at present is that all NNPs are sovereign and each NNP has the right to self-determination, up to and including secession.[23]

In fact, the TPLF did not seem to bother about the theoretical or intellectual clarity of these notions. It was singularly interested in the instrumentality of the question of nationalities. As alluded to earlier in the context of the Marxist-Leninist theory of nationalism, what most interested the TPLF was the organizing power of the question of nationalities. As Young, observes, although the number of the Amhara in Tigray had always been negligible, the atmosphere of Amhara cultural dominance was felt in the province through the use of the Amharic language by state functionaries—the police, governors, court personnel, tax collectors, and so on.[24] The TPLF carefully theorized about the perceived existence of discriminatory treatment against the Tigrayans carried out by the "Shewan Amhara" elite. Again, Young correctly observes that the ideology of the TPLF was not formed on the basis of any ethnic nationalism prevalent among the Tigrayans; rather, it was culled from the Leninist-Stalinist theory of nationalism embraced by the Ethiopian Student Movement in which the TPLF's founders were active participants.[25]

It is necessary to note here the position on the question of nationalities of the other political organizations that emanated from student revolutionaries. The major ones were the EPRP and All Ethiopian Socialist Movement (AESM, better known by its Amharic acronym መኢሶን (Me'ison)). During the early 1970s, both the EPRP and AESM were inclined to endorse the right to self-determination of nations and nationalities, including secession. For example, in its program of March 1975, the AESM stated bluntly that "the right of nationalities to self-determination up to and including secession is recognized."[26] These parties, however, made some revisions in the subsequent years. In this regard, the EPRP was seen to have focused more on the issue of class struggle in the spirit of Marxism-Leninism as

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[23] Arts 8 and 39, Constitution of Ethiopia (1995).

[24] John Young, *Peasant Revolution in Ethiopia: The Tigray People's Liberation Front, 1975–1991* 31 (1997).

[25] *Ibid.*, 32

[26] Clapham, *supra* note 11, 198.

the solution to Ethiopia's problems, while the AESM considered federal/regional issues to be central to Ethiopia's political problems.[27]

2. Analysis of the Socio-historical and Governance Conditions (to-date) of Ethiopia

On the backdrop of the above explanations offered by student revolutionaries, scholars, and political practitioners, I shall attempt to offer an assessment of the socio-historical and governance realities of the country in order to advance my argument that bad governance is primarily responsible for the continued suffering of the Ethiopian public and the multifaceted crises being experienced. Bad governance is here defined by: governments of unlimited power; governments fostering exploitative economic relations; governments lacking accountability and transparency; governments trampling on the rights and freedoms of citizens without any accountability for their violations; and unelected governments or governments elected without meeting the standards of free and fair elections.

Two sets of arguments can be advanced as to why the theory that the Ethiopian political crises of the 20th century emanate chiefly or solely from national oppression cannot be sustained. The first one can be termed socio-historical and cultural, while the second has to do with the nature of the governance system that was established and sustained by the governments in question.

It is an established fact that there has been social discrimination against certain groups in society on different grounds. These discriminatory treatments are widespread throughout the country regardless of cultural or religious differences. A ready example is the discriminatory treatment in the north of the artisans (including the *felasha [Beta Israel/Ethiopian Jews])*. These people were not allowed to mix with so-called Abyssinians by intermarriage or in other social

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[27] Andargachew, *supra* note 15, 139.

forms. Nor were they allowed to own land in any form.[28] The northern peasantry included both tenants ('ጭሰኛ/ *česañā* in Amharic) and landowning peasants.

The tenant-landlord relationship was not unique to the southern part of the country—which was placed under the central administration in the early 20th century—although there were some important differences between the north and the south. One such difference being that in the north not all peasants were tenants, while the bulk of the southern peasants were tenants. Whether landowners or not, peasants in both north and south were ገባር (gabāre)—tribute-paying units—to the overlords, such as the nobility.

Areas that resisted Menelik II's expansion to the south, such as Arusi, Wolayta, Gurage, Keffa, Harer, and partly Benishangul, were treated differently from those that submitted without military confrontation, such as Jima and Wollega. In the former case, state-sponsored soldiers were implanted in the areas as part of the effort to sustain state authority. These soldiers had to be garrisoned after the conquest in order to maintain state authority. The "implanted" soldier-settlers (known commonly as ነፍጠኛ/*nafeṭañā* in Amharic) were transformed into a privileged hereditary class.[29] This gave rise to a new social relation between the local people and the new privileged class. They and the ባላባት/*bālābāte* (local nobility) were assigned ገባሮች (gabāroče) (local farmers) who provided them with determined amounts of services and produce. Lands that were not cultivated until the conquest became in principle "Emperor's lands" and were sold to buyers principally from the north. Settlers on these latter lands were not owners of the lands as in the previous case, but tenants who worked on the lords' lands.[30]

Another social fact to note is negative stereotypes. Such stereotyping was mutual. Regional and cultural symbolism and stereotypical depiction were common but there seems to be an agreement that the northern aristocrats in charge of the

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[28] Gebru Tareke, *Ethiopia: Power and Protest, Peasant Revolts in the Twentieth Century* 65 (1996).

[29] Harold G. Marcus, *The Life and Times of Menelik II: Ethiopia 1844–1913* 192 (1975).

[30] Donald Donham, "Old Abyssinia and the new Ethiopian empire: themes in social history," in Donald Donham and Wendy James (eds.), *The Southern Marches of Imperial Ethiopia: Essays in History and Social Anthropology* 3, 41 (1986).

southern conquest were characterized as considering themselves to be more dignified than all other groups, north and south. By viewing them from the northern cultural perspective, the northern aristocrats considered the people of the new south as uncivilized and hawkish.[31] However, as time went by, social assimilation continued through increased interaction. Although most aristocrats and landowners were those that came with the accompanying state machinery, the view that there was a coincidence between class and ethnic origin in the south would be misleading. For one, the ruling aristocracy was made up of different groups of Amhara, Oromo, Gurage, Tigre and others who displayed the culture and religion of the imperial state. One should also note that there were many wealthy and powerful locals, and poor and helpless settlers at the same time.

As earlier noted, in the parts of the west and southwest (Nekemt, Kelem, Benishangul, Jimma, Gubba) and the east (Aussa) that recognized the imperial state willingly, power decentralization akin to that of the older times was allowed to continue. They were made tributaries and retained their autonomy and local rulers. In these provinces, there were no imperial settler-soldiers (ነፍጠኛ/ *nafeṭañā*) or imperial governors. The hereditary chiefs or governors in place were allowed to continue in return for their tribute payments, with their power to impose taxes and all other administrative and judicial decisions remaining intact.[32] This arrangement was held until it was ended by Emperor Haile Sellassie in 1932, foreshadowing his zeal for the centralization of power that was to follow.

The third relationship concerns what can rather be termed as a "non-relationship" between the state and the lowland inhabited by the pastoralists and hunters-gatherers. These are made up of the mostly Muslim population of Somali, Afar, and, partially, Oromo people, along with those inhabiting the southwestern and western lowlands bordering the Sudan and the present South Sudan. The failures of the imperial state were most starkly shown in its relation to these people, as it generally remained much less engaged with them. The lack of the state's presence in these areas had kept the interaction between the state (and its bureaucratic

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[31] Marcus, *supra* note 29, 193.

[32] Allesandro Triulzi, "Nekemte and Addis Abeba: Dilemmas of Provincial Rule," in Donham and James (eds.), *supra* note 30, 51, 58.

apparatus) and the lowland population at a minimum level until some symbolic changes came after 1974. Although most of the time these people generally accepted their positions as tributaries, they reacted dramatically when they were able to do so, as they did under Ahmed Ibn Ibrahim (አሕመድ ግራኝ - *'aḥ emade gerāñe*) in the 16th century.

Writing about the situation of peasants in northern and central Ethiopia during the Middle Ages, Richard Pankhurst observes that the peasants are grievously exploited by the lords, so much so that they had no incentives to produce.[33] Furthermore, they received added misery from soldiers who plundered the homes and fields of the peasantry; they were additionally responsible for providing food and shelter to soldiers and other passers-by. The abusive treatment the peasants received at the hands of the soldiers and the travelling lords who would come with extensive entourages would leave the peasant feeling demoralized and dishonored. Credible historiographical sources document that, throughout the Middle Ages, even before the Christian kingdom's major confrontation with emirs of Adal and the expansionist movement of the Oromo clans, there had been constant conflict in the different parts of the country.[34] This phenomenon, its destructive effects aside, no doubt has contributed to the intermixture of the various communities of Ethiopia. This situation of war and conflict continued, and with it the misery of the peasants due to these exactions well into the second half of the 19th century.

In this connection, Levine says that at least for the last two millennia the various linguistic communities inhabiting Ethiopia today have been in more or less constant interaction through trade, warfare, religious activities, migration, intermarriage, and exchange of special services.[35] People of diverse origins and backgrounds crisscrossed "Greater Ethiopia" and met, interacted and traded for centuries, not only in numerous sub-regional markets but also in the larger regional markets such as Aksum (in the north), Harar (in the southeast), Gonder

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[33] Richard Pankhurst, *A Social History of Ethiopia: The Northern and Central Highlands from Early Medieval Times to the Rise of Emperor Tewodros II* 9 (1992).

[34] *Ibid.*, 12.

[35] Donald N. Levine, *Greater Ethiopia: The Evolution of a Multi-ethnic Society* 29-32 (1974).

(in the northwest), and Bonga (in the southwest).[36] Drawing on historical evidence, Levine aptly characterizes the formation of modern Ethiopia in the late 19th century as "an ingathering of peoples with deep historical affinities."[37]

It is well documented that Emperor Haile Selassie came with progressive plans to open up the country to modern education, modernize the economy, and improve its international relations.[38] This began with the enactment of the 1931 Constitution on the first anniversary of his coronation. But at the same time, he was predisposed to centralizing power in his hands. He was not happy with the semi-autonomous nature of the regional governors who were in charge of their small armies. He abolished hereditary noblemanship and centralized security and the armed forces.[39] After the restoration of his administration in 1941 following the defeat of Italy, he continued the centralization drive more vigorously. The 1942 Decree on provincial governments brought a fundamental paradigm shift that put an end to centuries-old system of power relations in which regional rulers were masters of their own territories, with only tribute-paying relations to the king of kings at the center.[40] Regional rulers were deprived of the control of provincial finance and taxes. The Decree made the administrative regions it created directly accountable to the center. It gave the Emperor the power to appoint all governors-general of provinces (ጠቅላይ ግዛት/ *ṭaqelāye gezāte*) and governors/directors for the sub-provinces (አዉራጃ ግዛት/ *'awurājā ā gezāte*) and districts (ወረዳ ግዛት/ *waradā gezāte*) throughout the Empire.

Bit by bit, Emperor Haile Selassie concentrated power in his hands, giving it a more solid constitutional expression in the 1955 Revised Constitution which gave the Emperor undisputed and indisputable executive, legislative, and judicial powers, leading him to single-handedly enact, among others, such ill-advised

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[36] *Ibid.,* 41.

[37] *Ibid.,* 28.

[38] See Bahru Zewde, *Pioneers of Change in Ethiopia* (2002); Tekle-Hawariat Tekel-Mariam, *Auto Biography* (in Amharic) (2006).

[39] Gebru, *supra* note 28, 18.

[40] James C.N. Paul and Christopher Clapham, *Ethiopian Constitutional Development: A Sourcebook* 552 (1972).

measures like the dissolution of the Eritrean federation (with Ethiopia) in 1962. The constitutional declaration of the Ethiopian Orthodox Church as "the Established Church of the Empire … supported by the state"[41] also no doubt alienated the Muslim community and followers of other Christian variants all around the country.

Furthermore, with the conviction to mold "one nation" out of the multitudes of ethno-linguistic communities in the country, the imperial regime had taken successive measures that undermined the cultural and linguistic autonomy of the groups. For example, the official or public use of the Tigrigna language for communication as well as in schools even in Tigray and Eritrea were proscribed.[42] Markakis notes that other indigenous languages (not including Amharic) were not allowed to be "printed, broadcast, or spoken in public functions, and attempts to study the culture and history of other groups were decidedly discouraged." One could say that the history of autonomous self-rule by the Tigray province had been on the decline from Emperor Menelik's time. Added to that was the clear lack of development in the Tigray province during the entire reign of Emperor Haile Selassie, lending credence to the idea of ethnicity-based nationalism in that province.

Added to the above measures and decisions by Haile Selassie's government that undermined the traditional governance system as well as cultural and linguistic self-expressions of the various groups were the increasing bureaucratization, nepotism, and corruption in the imperial government. The ruling oligarchy became heavily engaged in amassing private gains through businesses like import-export trade and other private investments with expatriate business persons while holding office.[43] As a result, in the first half of the 1970s, in Kafa, Arsi, Illubabur, Gamo Gofa and other places in the south, the people demonstrated and demanded the removal of the governors-general, citing incompetence, eviction of tenants,

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[41] Art 126, 1955 Revised Constitution of Ethiopia.

[42] Markakis, *supra* note 5, 230.

[43] Harold Marcus, *A History of Ethiopia* 167-69 (2002).

and embezzlement of public money.[44] Undoubtedly, there was also an unbalanced and inequitable distribution of schools and other social services, which were disproportionately concentrated in Addis Ababa and Eritrea.[45]

Haile Selassie's government was debased because of the concerted opposition to it by student revolutionaries and other sections of the society. There was unity in portraying what was believed to be the main failures of the imperial administration, chief among which were the authoritarian political culture, exploitative social relations, a lack of democratic representation, and the miserable economic conditions of the peasantry,[46] most starkly demonstrated by the devastating famine in Wollo province in early 1970s. "Education for children of the poor," "bread for the hungry," "land to the tiller," and "down with monarchical rule" were the popular slogans of the student revolutionaries.[47] The quest for representative government (ሕዝባዊ መንግስት ይመስረት/*ḥezebāwi manegeśete yemaśerate)* was loud and clear. The restrictions on ethnic and cultural self-expressions made by the imperial regime were also highlighted by the opposition to the regime.

Soon after its assumption of power, although it took such welcome steps as the redistribution of land to the farmers by nationalizing rural and urban land in 1975, the Derg started to implement sweeping measures that were opposed to freedom and political pluralism. Already by 1976, it declared, through what it called a "program of national democratic revolution," its commitment to the vanguard proletariat party. It stamped out all kinds of dissent and opposition, starting with the "red terror" campaign it waged against generations of students and other educated sections of the country. It made any alternative voice, association, or party illegal. It ruled the country with a litany of proclamations, regulations, circulars, edicts, and orders for 13 years until 1987, when it enacted the PDRE

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[44] Andargachew, *supra* note 15, 46.

[45] Marcus, *supra* note 43, 165.

[46] Gebru Tareke*, The Ethiopian Revolution: War in the Horn of Africa* 27 (2009); Assefa Meheretu, *Delegitimization of the Collective Identity of Ethiopianism*, 11.1&2 International Journal of Ethiopian Studies 45, 47 (2017).

[47] Bahru, *supra* note 13, 153-54; Gebru, *ibid.*

(People's Democratic Republic of Ethiopia) Constitution which unequivocally instituted the Workers' Party of Ethiopia (WPE) — "guided by Marxism-Leninism" —as the vanguard party of the working people. It also declared the notion of "democratic centralism" and the command political structure as its modus operandi. Power was tightly centralized in the hands of Mengistu Haile-Mariam. Only lip-service was paid to demands for the cultural and linguistic rights of the ethno-linguistic communities feeling excluded by the Ethiopian state. The last desperate attempt at decentralization was hollow and far from genuine, as were all other decisions of the regime. Decided by the WPE without grass-roots participation, the autonomous regions created by law (Proclamation No. 14/1987), which divided up the country into twenty-four administrative and five autonomous regions, were not given any meaningful powers.

In the final analysis, through its socialist principle of economic and political centralism, the military government ended up becoming more absolutist than the imperial regime had been. It ruled out political pluralism in favor of a one-party system; it sought to deal with all demands for autonomy and self-rule militarily. Its single important achievement, land redistribution, was rendered nugatory by its policy of multiple taxation on the peasants and forced sale of products to the parastatals. Finally, its northern war, for which young men were forcefully conscripted into the army, alienated the farmers, hastening its downfall. The joint military operations of TPLF and EPLF, coupled with Derg's losses of popularity internally and financial support externally, brought about its ultimate demise in 1991.

The Ethiopian state, although it speaks the Amharic Language and (until Emperor Haile Selassie I) professed Orthodox Christianity, does not represent any one ethno-linguistic group. Again, with Emperor Haile Selassie I as its last monarch, all the preceding ruling classes came to power through military power and the claim to hereditary rulership, such as the Solomonic line (along with, of course, some tactical intelligence in outplaying rivals and convincing followers). The Derg, as is well known, was comprised of junior army officers that came from different ethno-linguistic backgrounds brought together by sheer happenstance

and thereafter stuck together through common purpose, establishing itself as a new ruling class without any pedigree. Neither the "descendants" of the Solomonic line[48] nor the Derg represents any one ethno-linguistic group. It is my argument therefore that the past Ethiopian governments (representing the Ethiopian state in its political sense) should be distinguished from any one ethno-linguistic group and be judged on its own. They were oppressive and authoritarian. They cannot be taken to be "x" or "y" ethno-linguistic group's government. Because they were not.

As a further testimony of this, the popular discontent with the imperial as well as Derg's governments emerged in most places of the country without following any ethnic lines. For example, in 1968, the people of Gojjam (a province in the present-day Amhara region), angered by the imposition of agricultural tax and the bad administration of a Shewan governor (an Amhara from Shewa), staged protests against the imperial regime. The rumour that the government was planning to dissolve of the communal እርስት/ 'eresete (hereditary) ownership of land in the area was also one of the catalysts of the rebellion.[49] Likewise, the peasants of Bale (in the present-day Oromia region) rebelled in the 1940s and 60s. The causes were a combination of resentments resulting from the unfair distribution of political and economic resources, land alienation, unfair taxation, and ethnic and religious discrimination.[50] Similar uprisings occurred in the present day Southern and Sidama states in the 1960s, protesting the serfdom and land alienation imposed by the capitalists associated with the imperial ruling class.[51]   In Tigray, there were already rebellions in 1943 because of resentment against the appointment of a non-Tigrean governor and the introduction of Amharic as a medium of communication in all state institutions.[52] There were also other rebellions in 1958

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[48] Even if we take this as credible story, King Solomon was an Israelite (who never set foot in Ethiopia) and Queen Sheba or Saba was a certain monarch in the 10th century BC. Who would she represent ethnically?

[49] Gebru, *supra* note 28, 84.

[50] *Ibid.,* 125.

[51] Charles W. McClellan, "Coffee in Centre-periphery relations: Gedeo in the early twentieth century" in *The Southern Marches* 175; Donald Donham, *supra* note 30, 5.

[52] Gebru, *supra* note 28, 77.

in Wollo (in present-day Amhara region); and in 1947 and 1958 in Hararghe (in present-day Oromia and part of Somali regions).[53] These rebellions, which took place in different parts of the country, underscore the overwhelming similarity of the situations of the peasants and the herders in Ethiopian society given that their shared target was the state rather than a particular ethnic group.

It is my view that the above discussion demonstrates that the oppressive mode of governance of the pre-1991 governments and their inability to deliver economically and socially were the main source of the political crises contemporaneously experienced. If this view is correct, it equally means that the national oppression thesis for explaining the 20th century governance crises of the Ethiopian state was erroneous.

3. The Political Solutions Prescribed by the EPRDF and Its Problems

I have noted earlier in this paper that the TPLF was the most ardent proponent of the question of nationalities. Waging a rural-based armed struggle starting from the mid-1970s, the coalition it formed and led—the EPRDF—assumed state power under its leadership in May 1991. At the end of the 1980s, the goal of the TPLF was the restructuring of the Ethiopian state, although earlier it concentrated on liberating the Tigray people from the oppression of what it calls "Shewan Amhara ruling class."[54] When it assumed power in May 1991, it, along with the alliance of some other organizations that purported to represent various ethno-linguistic communities of the country, quickly moved to put into effect the legal and institutional structures to realize its political program of the right to self-determination, including secession, for every NNP in the country. This right was recognized in the 1991 Transitional Period Charter. As noted earlier in this paper, the 1995 Constitution also entrenched the various elements of this right more strongly. The Constitution created nine states as members of the federation but

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[53] *Ibid.,* 35.

[54] See Aregawi Berhe, "A Political History of the Tigray People's Liberation Front (1975-1991): Revolt, ideology and mobilisation in Ethiopia" (PhD Thesis, University of Amesterdam 2008).

left the door open for any NNP to request for its own federating state unit.[55] In fact, over the last two years, two additional states—the Sidama state and the South West Ethiopia People's state—broke away from the multi-ethnic Southern NNPs state, making the number of states 11.

Now, the million-dollar question is whether the social and political problems of the Ethiopian NNPs been resolved by the constitutionally entrenched self-determination rights and the institutional structures created by the TPLF-EPRDF. The state of reality of the country at the present time would definitely answer this question in the negative. The federal government has been at war with the TPLF for close to two years now. It has also been waging a low-intensity military campaign against the OLA-Shene (Oromo Liberation Army) since late 2018. Thousands have been displaced from Oromia region because of the latter conflict. Massive ethnic-based displacements have taken place between Oromia and Somali regions in 2017, and between Oromia and the Southern region in 2018. These have been happening in the Benishangul-Gumuz region with near regularity. People who have been rendered "not persons of the soil" because of ethnic territorialization have been relegated to second-class citizenship in the regions or sub-regional units in which they reside, for decades now. Political organizations, other than those in the ruling coalitions—EPRDF and allied parties previously and the Prosperity Party since 2019—who purport to represent titular groups, including the major ones like the Oromo, Amhara, Somali, Tigre, Sidama, Afar, Wolayta, Gedeo, and others have never stopped pointing out that all is not well with the rights of their respective peoples and the overall democratic governance of the country.

Seven elections took place during the tenure of the EPRDF: 1992 (regional council election during the transitional period); 1994 (for the Constituent Assembly to ratify the Constitution); 1995 (first general elections under the Constitution); and the four subsequent general elections of 2000, 2005, 2010, and 2015. One (delayed) general election took place in 2021 under the tenure of the PP. Objective assessments of all the EPRDF's elections documented that none of the elections

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[55] Art 47, the 1995 Constitution of Ethiopia.

came close to meeting the minimum international standards of free and fair elections. Although the 2021 general elections represent a major departure from the previous ones, holistic assessment based on election cycles will no doubt give it a fail mark from the viewpoint of democratic electoral standards.

Three decades after the right to self-determination and the ethno-linguistic-based federal arrangement have been rolled out as a panacea for, among others things, the political ills that plagued the Ethiopian body politic, most of the political problems of the mid-20th century remain unaddressed while, as noted shortly above, more problems have been added on top of them. My contention is that the political and legal solutions designed by the TPLF-EPRDF were results of wrong diagnosis of the real political problems of the country. The legal-institutional structures, including the 1995 Constitution, that have been put in place by the TPLF-EPRDF were not properly designed. The principles and rules of the Constitution have not been carefully and objectively designed to serve as bulwarks against manipulation by big or small ethno-linguistic groups, unilaterally or in a cliquish maneuver. Similarly, institutions that serve as enablers of inclusive democratic governance for ethno-linguistically divided societies like Ethiopia's were not comprehensively put in place. At the same time, the Constitution contains near-utopian declarations, like the right of every NNP to found its own state within the federation, which, owing to their impracticality, have become sources of conflict.

Major issues, such as executive power-sharing at national and subnational levels and the effective participation of the NNPs in other national and subnational bureaucratic and governmental economic institutions, have been ignored. "In reality, what [the] constitutional design has done (and continues to do) is to put the fate of the bulk of the [ethno-linguistic communities] in charge of one or two or a few [NNPs] who control the balance of power at a given time."[56] This seems to lend credence to comments to the effect that the whole ethnic federal self-determination scheme of the post-1991 period was put in place by the TPLF as

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[56] Getachew A. Woldemariam, "Constitutional Protection of Human and Minority Rights in Ethiopia: Myth v. Reality" 82 (PhD Thesis, The University of Melbourne, 2014).

mere "divide and rule" tactic. This seems now inherited by the Oromo political elites that have controlled the reins of power since April 2018.

Conclusion and Implications

I believe the facts and arguments presented above can show that the legal, political, and institutional solutions put in place by the TPLF-EPRDF—against the backdrop of its diagnosis of Ethiopia's political problems as emanating from national oppression—have failed to fix most of the problems while generating new types of problems. Hence my argument that inappropriate institutional design and a democracy deficit have been the real problems. The unfounded "national oppression" thesis that guided TPLF-EPRDF's institutional design has taken our attention away from the real problem: the inability to install a representative democratic government answerable to the people. This, therefore, calls for an honest assessment of the problems and the taking of appropriate measures, which include renegotiating the relevant parts of the constitutional design.

The first important step that needs to be taken is to ensure the existence of genuine democratic dispensation whereby citizens and political organizations can freely take part in the political life of their country, advancing their preferences and viewpoints. This, in my view, is the key to fixing all other problems. As part of the democratic exercise, all political actors should engage in a genuine dialogue to identify the problems and come to consensus on how to resolve them.

As I noted earlier, some of the outstanding problems cannot be fixed without the redesign of the relevant parts of the Ethiopian Constitution. Constitutional provisions and institutions that ensure equal citizenship of all Ethiopians at every corner of the country need to be defined in the Constitution. Furthermore, I believe that the need for putting in place appropriate ways by which the democratically mandated representatives of the ethno-linguistic communities and other ideologically-based political parties equitably share in the executive power at the national and subnational levels cannot be overemphasized. The same holds true for equitable representation of the ethno-linguistic communities in other

national and subnational bureaucratic and governmental economic institutions. The army and the security apparatus cannot be left out as well.

When doing this, instructive examples from well-functioning federal systems, such as Belgium, Switzerland, India, and Nigeria, could be assessed. In particular, I find the Nigerian "Federal Character Commission" very relevant for dealing with the equitable representation deficit of the current Ethiopian arrangement.

As is well known, there are more than 300 ethno-linguistic groups in Nigeria, including the Hausa Fulani, Ibo, and Yoruba, the three major groups.[57] The Nigerian Constitution provides for state and local balance in the appointment of government officials by proscribing predominance of persons from any few states or any few ethnic or other sectional groups in the society.[58] The Nigerian Federal Character Commission is an institution established by the Nigerian Constitution to realize this constitutional policy. Rutimi Suberu observes that the federal character principle is "[t]he most innovative and remarkable feature" of Nigerian federalism.[59] Suberu further notes:

> Indeed, the federal character principle has spawned a vast repertoire of more or less informal consociational practices that are designed to distribute, balance and rotate key political offices among the country's states, ethnicities, religious groups, regions and other cultural or geographical constituencies, including the six quasi-official geo-political zones (northwest, northeast, and middle-belt in the north, and southwest, southeast, and Niger delta or south-south in the south).[60]

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[57] See Allswell Osini Muzan, "The Nigerian Constitution and Minority Rights Guarantees" in D. A. Guobadia and A. O. Adekunle (eds.), *Ethnicity and National Integration in Nigeria: Recurrent Themes* 213 (2004).

[58] Arts 14(3)-(4), Nigerian Constitution (1999).

[59] Rutimi Suberu, *The Nigerian federal system: performance, problems and prospects* 28.4 Journal of Contemporary African Studies 459, 465 (2010).

[60] *Ibid.*, 466.

The Federal Character Commission is empowered to implement the federal character principle by, among other things, working out an equitable formula, subject to the approval of the national assembly, for the distribution of all cadres of posts in the public service of the federation and of the states; the armed forces of the federation; the Nigerian police force; and other government security agencies, government-owned companies, and parastatals of the states. It also is charged with the responsibility to promote, monitor, and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media, and political posts at all levels of government. Moreover, it has the power to take legal measures, including the prosecution of the head or staff of any ministry or government body or agency which fails to comply with any federal character principle or formula prescribed or adopted by it. The Commission is also empowered to ensure that every public company or corporation reflects the federal character in the appointments of its directors and senior management staff, regardless of any contrary stipulation in other laws. The design of an institution along these lines can go a long way in curbing the arbitrariness prevalent in Ethiopia regarding equitable representation.

Electoral system redesign is another matter that needs attention. True, the plurality variant of the majoritarian electoral system in place for parliamentary elections in Ethiopia has not been genuinely practiced. In that regard, the problems with past elections have not been linked to the electoral formula. But, given the ethno-linguistic and other political diversity extant in the country, an appropriate variant of a proportional representation electoral system or a hybrid one is believed to suit Ethiopia better.[61] Deliberation and agreement by the major political actors on a more suitable electoral formula must be made.

Strengthening the institutional structure for the protection of human and minority rights must also be prioritized. I believe several gaps exist in the current constitutional dispensation in this regard, but I point out just two here. The first

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[61] See, eg., Arend Lijphart, *Constitutional Design for Divided Societies* 15.2 Journal of Democracy 96 (2004); Andrew Reynolds et al., *Electoral System Design: The New International IDEA Handbook* (2005), ESD_del1 (anfrel.org)

is the need for the incorporation of the notion of "federal paramountcy" in the Constitution, which is now missing. The constitutions of the US, Switzerland, Russia, and Germany all specifically incorporate the principle of the paramountcy of federal laws over state laws either in relation specifically to rights or in all cases.[62] This principle I believe is necessary, among others, to make sure that all Ethiopian citizens and people enjoy comparable rights and quality of life. The second important principle that needs to be included in the federal Constitution is an explicit provision that prohibits states from granting any discriminatory treatment or preference to any of their citizens on any grounds, such as ethnicity, or place of origin, or any other status, nor restricting or abridging their rights or privileges on such grounds.

The need to revisit the constitutional review system put in place in the current constitutional arrangement in Ethiopia has been stressed by many commentators. It is also my view that there is a need to put in place a judicial body that will be guided by judicial independence principles and become an impartial and competent arbiter of constitutional disputes. It can be fashioned like the constitutional court prototypes or even to resemble the French *Council Constitutionel*, with the adaptations and nuances that will need to be added.

The final implication I want to draw from the main claim made in this paper is the need to redesign the parliament of the federal government. As it is one of the basic structures of federal arrangements, the parliament must be bicameral, having two legislative chambers. This should be done by redefining the mechanisms for constituting the House of Federation, which will no longer have a constitutional review power as per the suggestion made earlier. As in other federations that are well functioning, the upper house could be designed in such a way that it protects the interests of the federating units of the federation at the federal level and takes part in other shared-rule responsibilities.

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[62] See, eg, United States Constitution, art 6; Swiss Constitution, art 49; German Constitution, art 31; Russian Constitution.

DISCUSSIONS

Dr. Sisay Alemahu - Discussant

I think this is a very good historical analysis of the problem of what we call state building within the Ethiopian constitutional and political architecture. I will raise one general question which I take issue with, which is the genesis of the nationality question which, not only in your paper (you don't say it directly, but implicitly) but also in other writings, often is considered to have emanated from the Students' Movement. I do not think that is an accurate diagnosis of the question of nationality in the history of Ethiopia. At least the Oromo national or ethnic political movement emerged way before the Students' Movement—during the Mecha and Tulama Association—and what happened within the imperial dynasty's unease with the whole idea of ethic-based organizations, whatever form they took. I recommend **ግዝት እና ግዞት** *(gezete 'enā gezote),* a very insightful book on the evolution of the Mecha and Tulama Association and how it evolved to what we now call OLF.

If you look at it at all from the Oromo political movement perspective, during the Students' Movement what actually happened was a bifurcation in the way the political question has been articulated. People like Haile Fida joined All-Ethiopian Socialist Movement (commonly known by its native Amharic acronym **መኢሶን**/ *Me'ison*), considering it more of class struggle issue, whereas the Baro Tumsas, which reignited the Oromo ethno-political movement joined **እጮአት** *('Eċāte)* (an Amharic acronym for "Ethiopian Oppressed People's Revolutionary Struggle," a communist organization in Ethiopia) and later into ethnic political mobilization. So at least from the perspective of the Oromo political struggle, it would be remis to conclude that the question of nationality and ethnic politics emanated from the Students' Movement.

The other point I will raise is: in your diagnosis you try your best to show with evidence that the question was not really a national oppression question but rather

one of bad governance. I would like to present some challenge to this line of assertion. In your own presentation articulating the inegalitarian thesis, you basically indicate that there was a feeling of exclusion among the ethic lines. You also vividly and repeatedly show us that there has been cultural and religious suppression. I think it is integral part of the nationality question that cultural, religious, and linguistic oppression and marginalization happened in the history of the Ethiopia state. So, even the examples that you referred to support your argument that there were more movements based on socio-economic and political marginalization. There was always ethnic aspect to it. If we take the Bale Movement, there was a feeling of ethnic and political marginalization. And there is also the case of the 1943 Tigray upraising you mentioned. In all these examples there is this ethnic element.

On top of that, we have the politics of historical resonance, by which I mean that the way the political question is articulated resonates with the lived reality of the large population of the country. I can give you my own experience coming from a small village town in western Hararghe 700km from Addis Ababa. I lived and grew up in a community 99.9% Oromifa speaking Muslim population. Since my parents were businessmen, I had the privilege of knowing who the governors and the judges of that small village town were. The administrators and governors always came from the center, Amharic speaking governors and judges delivering administrative and judicial services in Amharic to a population that didn't speak Amharic. So, the political articulation of this problem in 1991 really resonates very well with the community that has experienced that situation. In that sense, as far as the population understood the political question, the problem resonates with the lived experience of that community; I think that is what matters more than how the problem is articulated in political science or by historians.

Finally, from the way you challenged the diagnosis of the Ethiopian body politic as not one of ethnic oppression but bad governance, I expected that your conclusion will somehow propose a sort of paradigm shift in the way the constitutional architecture should be framed, maybe moving to citizenship politics, but in your recommendations what you propose pertains to the

ethnolinguistic composition of state authorities and structures including the military, a Federal Character Commission adapted from Nigeria's federal system, and also a revamped role for the HoF. So, to me you basically proposed some fixes to the existing ethno-linguistic federation problem rather than proposing a new alternative, since according to your proposition the existing system was based on wrong diagnosis of the Ethiopian political problem.

Dr. Mulugeta Mengist

Dr. Getachew raised the instrumentalization of the nationality question in the Ethiopian body politic. I myself look at the nationality question or the concept of nations and nationalities in terms of its function as an instrument of public administration. It is not only a matter of cultural or linguistic self-expression; it is a matter of governance being rooted in public consciousness, which is formed as a result of common culture, language and history. I am often reminded of Nicolo Machiavelli's advice to the Prince, in which he stated that, while it is "better to be feared than loved," being feared has a limit since you cannot squander your force. Machiavelli further advises: "if you can secure something by deceiving people, don't dare to take it by force." So, public administration should be rooted in the common consciousness of the people. For me it is a matter of having an effective public administration that public administration should be rooted in cultural and linguistic identities. For me, the origin and the meaning of the term "nations and nationalities" doesn't matter; the question is whether it has a function in our modern public administration.

Dr. Zelalem M. Teferra

I have a quick question to Dr. Getachew: you proposed that the solution to problems ailing Ethiopia is to have an inclusive democratic governance system. Yes, Ethiopia has tried all forms of government, whether aristocracy, military dictatorship, imperial regime, and the one thing that we have not tried is a democratic governance system. But even for a democracy to take root I think there must be some conditions which should be fulfilled. For example, in poor countries where we do not have a developed society, it is very difficult to have democracy.

So, when you propose inclusive democratic governance, do you really think that we have the conditions required to implant democracy? I just wanted you to reflect on this idea. I still doubt if democracy alone can solve Ethiopia's core problems.

Reply: *Dr. Getachew Assefa*

The point I was trying to make in discussing the national question was this: yes, there were these problems, raised by Sisay Alemahu, including the prohibition of cultural and linguistic self-expressions and other problems that were felt by different ethnolinguistic communities, but all these problems stem from the undemocratic nature of the governance system in this country. In other words, it is not a situation where a certain ethnic group imposing restrictions on cultural and linguistic self-expression of other ethnic groups, but one where the state failed to design proper polices, laws, and systems to account for the interests of the various ethnic communities, including language self-expression and cultural expression. For me, that is where the problem comes from; so, if we have a democratic governance that caters to the different interests, we do not need to talk about the national oppression issue.

To address the problem, I recommended inclusive approach because, in my view, we cannot implant democratic governance in Ethiopia without taking into account the interests of the different ethnolinguistic communities. The governance system cannot be purely citizen-based; I do not think it will work. We must think about a consociational power sharing arrangement that is meticulously designed, not arbitrary like what we see when one ethnocracy replaces another, a result of the absence of a design that prevents this from happening. So, I think having the right policy and legal regime which takes into account the interests of the various ethnolinguistic communities on an equitable basis is a government problem, not a problem one ethnic group created.

Regarding the conditionality issue to implant democracy, there are democracy theorists who argue for and against the prerequisites. I think the idea that we must wait until a middle class is created for us to practice democracy is problematic.

Self-Alienation: Ethiopia's Identity in Postcoloniality and its Implications for a Future Ethiopian Social Contract*

Dr. Shimelis Kene

Abstract

In this short essay, I argue that one of the greatest challenges to a viable future "social contract" for Ethiopia lies in the continuous, unreflective importation of unvetted Western ideas and ideals. This importation has resulted in a "crisis of identity" and "self-alienation," which in turn has denied Ethiopians the "epistemic agency" they need to build a viable society and state. As often is the case, these foreign ideas are imported either to "modernize" the state or as correctives to what went wrong in the immediate past. In other words, a rejection of what is "indigenous" and of the past seems to underpin these importations. In both cases, the received wisdom appears to suggest that a rejection of the past (and of what is "indigenous") is the best, and even the only way to go about the pursuit of modernization or a political project. In the latter part of this essay, I suggest that, rather than disparaging what is actually wrong with Ethiopia's past or underplaying or ignoring it altogether, the whole gamut of Ethiopia's history should be integrated into the present and future of the life of the body politic of the state. To explain this intuition, I will use the concept of the Shadow, developed by the Swiss psychoanalyst Carl Jung.

Introduction

Not long ago, one would have been taken as a doomsday prophet if one were to have invoked this notion, but the fact that Ethiopia now is in crisis is beyond

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* This short essay is a transcript of my conference presentation, with light edits afterwards. The ideas reflected here are not fully developed. The thrust of the essay, and my hope, is to catalyze scholarly engagements on my central claim. Note also that I have not followed formal academic referencing rules.

doubt. Time will tell whether or not this is just pain before birth, to invoke a metaphorical cliché. Nonetheless, understanding the underlying nature of the crisis and the causes thereof is a good place to start the diagnosis and to identify the prognosis of a viable social contract.

The relatively stable post-Cold War global order is in crisis owing to seismic changes driven by and related to environmental and geopolitical factors, to name but a few. With globalizing and corporate powers in full force, even the notion of the nation-state as the best and most viable means for governing a society is increasingly being questioned. There is little doubt that the crisis in Ethiopia must be understood within this global context. From that perspective, one would see that not many components of the crisis are particular to Ethiopia. While these changes and how they relate to and affect Ethiopia are worth considering, nonetheless, Ethiopia's crisis is deeper and more uniquely Ethiopian than can be explained by these changes.

With the crisis growing deeper by the day, that Ethiopia needs a more viable future social contract that reflects the collective aspirations of Ethiopians seems to be self-evident. If that is the case and there in fact is a political will and environment to initiate and actualize such a project, the key question is, what are those collective aspirations? Is there such a thing as a "collective aspiration" in a society as diverse and conflict-ridden as present-day Ethiopia? But assuming such a collective aspiration exists, why does Ethiopia seem to have failed with that project in the past? In other words, why has Ethiopia not truly transitioned into a stable state, if not a flourishing one? A burgeoning body of popular and scholarly literature has addressed this very question. This body of work has exclusively focused, albeit for a good reason, on socio-political and historical factors to explain that failure.

In this short essay, I argue that one of the greatest challenges to a viable future "social contract" for Ethiopia lies with the continuous, unreflective importation of unvetted Western ideas and ideals, which has resulted in a "crisis of identity" and "self-alienation" that have, in turn, denied Ethiopians the "epistemic agency" they ought to have when building a viable society and state.

1. Ethiopia's Postcolonial Identity

Ethiopia is an anomaly within postcoloniality. Its history and identity present problems inherent to the study of postcolonialism as a theoretical and empirical phenomenon. Ethiopia is one of the few countries in the world that has enjoyed uninterrupted political state history and existed as an independent sovereign nation for millennia. However, this dominant narrative elides the fact that, while Ethiopia has more or less kept intact its distinctive identity, its imperial encounters, nonetheless, have left indelible marks on its identity. In fact, Ethiopia's history is arguably one of both reception of and resistance to colonial/imperial influences. As such, within postcoloniality, Ethiopia could be thought of as holding a place similar to the Ottoman Empire, Persia, or many other "middle places" which are neither fully colonies nor fully independent.

In a similar vein, considered from the perspective of the place Africa holds within postcoloniality, Ethiopia's identity seems more a confluence of both an apparent belonging in and exclusion from Africa and an identification with, and rejection of, Europe. It is because of this paradox of presence-absence in Africa that Ethiopia's postcolonial identity is best captured as one of perpetual in-betweenness, or a unique amalgamation of reception of and resistance to the West.

But contrary to the tendency is to see this aspiration to and invocation of Western standards as a manifestation of blind emulation of or actual admiration for Western standards, they were "not purely born of admiration." Instead, they were mostly undergirded by state leaders' keen awareness of the fact that European technological advancement in military wares was, in particular, a reason for some of their defeats by European colonial powers in earlier times and, hence, produced aspirations and orientations. In other words, their aspiration to civilize ought not be necessarily credited to an admiration for the West or a belief in its superiority or internalization of the values therefrom, but more as an instrumentalist move.

For example, during Ethiopia's engagements with the League of Nations in the interwar period, Ethiopian elites framed their interaction with the League as

driven by a desire to aspire towards European civilization. During their involvement with the League, Ethiopian elites frequently invoked civilization while deliberately linking civilization to Christianity. They did this to find common ground with Europe. So, Ethiopia presented itself to the League as "both culturally unique and, therefore, different from the League's other, primarily European members, but also as culturally and hence legally equal to them." But, more importantly, the invocation of civilization is appealing to European standards without necessarily accepting those standards. In fact, the Ethiopian leaders believed in the equality, if not superiority, of Ethiopia's own version of Christianity and by extension, its own civilization. As such, the invocation of civilization is intended to forestall—even if unsuccessfully—colonial conquest on the grounds of "civilizing" Ethiopia. In that sense, Ethiopian leaders are only engaging in what could be taken as an immanent critique in which one invokes "principles which are supposed already to inform the ideas and institutions we seek to question" while not necessarily accepting the standards and ideas that inform those institutions.[1]

What we see, therefore, is that in addition to keeping the core identity of the state intact, Ethiopia's leaders and elites of the past, to varying degrees, used Ethiopia's postcolonial identity in ways that were beneficial to them and to the state. However, with time and increasing global connectedness, the more limited and restrained appropriation of Western discourses was replaced by a characteristically unvetted importation of Western ideas and ideals. Consequently, Ethiopia's core identity faced a crisis, which in turn resulted in the "self-alienation" and denial of the "epistemic agency" of Ethiopians necessary to build a viable polity and state.

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[1] Susan Marks, *Big Brother is Bleeping with the Message that Ideology Doesn't Matter*, 12 EJIL 109, 120 (2001).

2. The Eucalyptus Tree as a Metaphor for Ethiopia's Identity Crisis and its Consequences

During a field trip to Yem,[2] I had an informal conversation with the then Speaker of the Yem Special Zone Council. Near a small forest, I picked a leaf from a white eucalyptus tree and smashed it in my palm, then inhaled the scent with euphoric gusto. I remarked to the Speaker how intoxicatingly beautiful the aroma was, and how much I loved the eucalyptus tree, especially the white variety. The Speaker then shared with me how much the eucalyptus tree, especially the white variety, had had a damaging effect on the soil, consuming disproportionate amounts of nutrients, unlike other indigenous trees. It grows fast and thus serves construction and energy needs of the locals very well, like the eucalyptus tree in vast parts of Ethiopia. The downside is that the trees have been gradually damaging local flora and fauna over time, and according to the Speaker, have caused serious soil degradation in the region.

It was these apparent benefits of the tree that presumably led Ethiopia's Emperor Menelik II to import the eucalyptus tree from Australia at the tail end of the 19th century, earning it the quite appropriate name ባሕር ዛፍ (*bāhere-zāfe)*, which roughly translates to 'tree from offshore', meaning a tree transplanted from abroad. Unbeknownst to the Emperor, despite his good intentions and the clearly advantageous benefits the tree had, its downsides outweighed the benefits, with long lasting impacts.

Its quick growth and associated advantages often led locals to choose to propagate it over indigenous varieties. Not only did this discourage locals from propagating indigenous trees, but worse, the imported tree even damaged indigenous ones. Irrespective of its immediate and apparent benefits, the eucalyptus tree depletes the soil's indispensable and unique nutrients and destroys the soil's very nature and its viability, leaving something quite different in its wake. In other words,

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[2] Yem is one of the Special administrative zones within the Southern Nations, Nationalities and Peoples Regional State, one of the eleven regional states within the current federal system of Ethiopia.

while the tree has its benefits, unreflective importation has cost Ethiopia important resources.

One of the clearest parallels to this story of the eucalyptus tree in the socio-political space in Ethiopia is the Student Movement of the 1960s and its characteristic subscription to Marxist and socialist ideologies. An ever-growing number of both academic critiques and popular commentaries attribute the country's sociopolitical ills in the post-Imperial period—from which the country is yet to recover—squarely to the Student Movement. However, the problem with this pattern of importing unvetted Western ideas is that its consequences are not always obvious, as in the case of the Student Movement, and its effects are in fact much more profound.

3. Subjugated Knowledge and Its Features and Consequences

The Ethiopian intellectual culture arguably is most aptly characterized as being predicated, by default, on the implicit assumption that what is Western is better, and even superior, to what is Ethiopian/indigenous. This is borne out in the ways that the production of knowledge is typically and, in some cases exclusively, characteristically undergirded by the mass, wholesale importation of unvetted foreign ideas, concepts, and ideologies. No wonder, then, that modernization has increasingly come to be synonymous with Westernization. Revelatory of the starkly perilous nature of this pattern is the fact that, often in the name of "scientific" methodologies, indigenous ways and forms of knowing are either ignored altogether or derided and relegated to an inferior hierarchical place vis-à-vis Western ways of knowing and knowledge production. In other words, indigenous knowledge has become subjugated. This has had the effect not only of eroding indigenous cultures, societal values and the like, but also, probably more importantly, undermines Ethiopians' way of being in the world and denying them epistemic agency.

Furthermore, a lack of critical engagement with these ideas leads to an unconscious subscription to their underlying ideological underpinnings, and

equally, if not more, importantly, it creates a breeding ground for Eurocentric views to take hold and to supplant indigenous values and ways of being.

3.1. "Words are things"

A problematic feature of the pattern of importing unvetted foreign ideas is that it fails to properly appreciate the constitutive effects of words. Words, rather than being just utterances, have a profound effect on the psyche of an individual and the social world. Indeed, when Maya Angelou writes that "words are things," she is pointing out the constitutive effects of words. No wonder, then, that the ancient texts of the great religions speak of the profound role that language has in reality and the psyche of an individual and their social lives. One such example is the Biblical reference, "In the beginning was the Word, and the Word was with God, and the Word was God." In a similar vein, the Quran starts with these words: "Read in the name of your Lord Who created … Read in the name of your Lord … who taught by the pen, taught humanity that which they knew not."[3] Words hold such an elevated significance that the Bible tells us in the very beginning there was the "Word"! Similarly, the first word in the Quran is "read" and "creation," and a couple of words down, we read God teaching humanity with a "pen." Both of these ancient of texts intertwine "words" with "creation" and "knowledge."

Another prime example of the causal relation between words and reality is found in the Biblical story of the Tower of Babel, in which God takes the rather odd step of mixing up the languages of the Babylonians, causing the collapse of an otherwise colossal project of human ingenuity. Whether one takes this story as an actual historical incident or not, it speaks, at least metaphorically, to the deep causal relationship between the physical world and the language in which it functions.

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[3]   Quran 96:1, 3, & 5. I thank Abadir M. Ibrahim for bringing to my attention these Quranic references.

3.2. The failure to appreciate the ideological underpinnings of foreign ideas

The problem with the pattern of importing Western ideas and concepts uncritically is even more stark in the Ethiopian politico-legal public discourse. This is so pronounced that often the ideological underpinnings and Eurocentricity of important concepts like human rights and the rule of law, to take but two examples, are either never fully appreciated, ignored altogether, romanticized, or, in the name of "universalism," adopted uncritically. For example, writing in the context of Ethiopian modernism (ዘመናዊነት - *zamanāwinate*), Andreas Eshete extols modernity and the significance of "fraternity," one of the triune ideals of the French Revolution, in the following words:

> The public ideals realized in the modern age are ideals for all human beings. In that sense, fraternity is a central idea of modernity. It is undeniable that modernity provides the possibility of shared values, aims and bonds amongst all human beings and peoples and hence the modern form of solidarity I call fraternity. Indeed, it is striking that it is only in the modern age that we are all contemporaries. Modernity is the era where humanity shares a common destiny.[4]

It is true that "the discourse of human rights … has successfully served as an arsenal against colonialism and in several self-determination endeavours."[5] But, as critical and postcolonial scholarship convincingly demonstrate, irrespective of its earlier history and its continuing emancipatory potential, the human rights agenda has also been, to quote a seasoned scholar in the field, "a core part of hegemonic international law, reinforcing preexisting imperial tendencies in world politics."[6] In other words, the apparent benefits of the ideals of the modern human

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[4] Andreas Eshete, *Modernity: Its Title to Uniqueness and its Advent in Ethiopia: From the Lecture What Is "Zemenawinet"?: Perspectives on Ethiopian Modernity*, 13 Northeast African Studies 1 (2013).

[5] Balakrishnan Rajagopal, "Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy" in Richard Falk, Balakrishnan Rajagopal, & Jacqueline Stevens (eds.), International Law and the Third World: Reshaping Justice 64 (2008).

[6] *Ibid.*

rights regime aside, this sort of uncritical appropriation and exaltation elides the "darker" side of modernity and its instruments.

3.3. They say not what we mean: Disjunctive realities in Ethiopian public discourse on rule of law

Another key feature of the mass importation of unvetted foreign ideas is that they create what I refer to as "disjunctive realities." Again, to cite an example from a familiar field, Ethiopian public discourse on rule of law subscribes by default to a liberal conception of the rule of law. The crucial question is whether and if this conception actually captures an Ethiopian view of law, if there is such a thing as an Ethiopian view of law.

Within the political ontology that underpins the rule of law, law comes into being—is legislated—as a product of free will. In a variety of different guises, "Western" jurisprudence presumes that "modern" aggregates of individuals, unable to agree on the common good, submit to a legal framework which allows them to "agree on how to disagree." Hence, "society" can be "realized." Indeed, the social contract model is particularly relevant with respect to human rights, where rights have long been understood to exist "when a duty bearer owes an obligation to the right-holder because of a prior promise."[7]

However, as the widely known Amharic saying, ሰማይ አይታረስ ንጉስ አይከሰስ (samāye ’ayetāraśe neguśe ’ayekasaśe), which roughly translates to "as the sky cannot be plowed, the King cannot be prosecuted," highlights, there is a clear disjunction between a liberal conception of law and an Ethiopian view of law. This saying underpins the teleological and ontological bases of a conception of law that is starkly different from a liberal conception because it renders the King as the only source of law and grants the individual a minimal and, hence, a mere subsidiary role. Not only that, but more importantly, as the giver of law, the King is not subject to the rule of law like the common man. To be sure, within a diverse and

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[7] Costas Douzinas, *The End of Human Rights* 232 (2000).

legally pluralistic society such as Ethiopia's, thinking of a single conception of law/rule of law may not be theoretically or practically possible, or even desirable. Nonetheless, the important point here is that the default dominant liberal conception of law/rule of law that underpins Ethiopia's politico-legal public discourse is in clear disjunction with the indigenous understanding of law.

What is of particular import to the issue under discussion is the way in which a contractual framing of rights not only underscores the legislator (state) as a duty-bearer bound by mutual agreement to a rights holder (individual), but the extent to which that relationship is insular and circumscribed. A contract does not create chains of relationships. Each contract binds only the two parties concerned; contracts are not transitive in the way that extracontractual liability is.[8]

4. Integrating the Shadow

One of the deeply divisive and persistent issues in Ethiopian political discourse has been the issue of what to make of Ethiopia's past, both the good and the bad. In fact, this issue will remain the most critical challenge to crafting a viable future social contract. Leaving aside the contentious issue of what constitutes the standards by which the good and the bad are to be measured, the fault line of contemporary Ethiopian political discourse lies in what to make of Ethiopia's history and how much of that history should inform contemporary political and legal discourses and institutional arrangements. Thus, it is beyond the pale that a future social contract would have to address this issue head-on.

Those who oppose the historicity of these grievances implicitly or explicitly, consciously or unconsciously, associate the acknowledgement of these historical injustices with somehow putting a stain on the otherwise "glorious" history (albeit not fully without blemish) of the state. For those in this camp, historical injustices, while unjustifiable and never to be condoned—especially if done for no apparent

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[8] Sari Wastell, "Being Swazi, being human: custom, constitutionalism and human rights in an African polity," in Mark Goodale & Sally Engle Merry (eds.), *The Practice of Human Rights: Tracking Law between the Global and the Local* 323 (2007).

reason other than to defend the interests of the state—are a natural part of the genesis/evolution of a state. While the intentions of those subscribing to this position may not be as blameworthy, they seem to be guided by an erroneous assumption that acknowledging those historical injustices would somehow fundamentally change the identity of the state and, hence, they have to fight it at any cost. In stark contrast, those who claim to have been on the receiving end of these historical injustices firmly believe that not only should these historical injustices be duly recognized, but they staunchly defend the idea that those injustices be the foundation of any future politico-legal projects, such as a future social contract.

What is clear is that both camps would have us believe that all there is to Ethiopian history is only either the "glorious" or the "bad." Hence, both camps to varying degrees underplay one or the other aspect of Ethiopians' shared history. Here, of course, politics, devoid of moral and ethical considerations, contributes more than generally accepted history. Nonetheless, this issue presents itself as the absolutely crucial issue whose resolution is a prerequisite to crafting a viable future social contract. For that reason, it seems to be the case that the historicity of past injustices is not nearly as relevant as the issue of tackling it in ways that satisfy both political camps. The question then is how and—beyond the political utilitarianism devoid of the ethical and moral considerations that animate them— why it is that both camps are recalcitrant to addressing this problem? Is there a potential solution at all?

To think through these questions, I will use the concept of the Shadow developed by the Swiss psychoanalyst Carl Jung. According to Jung, humans always have both good and bad things about them. These he calls the Shadow. Conventional wisdom tells us that, for a person to build what is considered to be a good and meaningful life, they must fight the Shadow in their lives. The Shadow is to be shunned at any cost, lest an individual not have the desired good life full of meaning, purpose, and happiness. In stark contrast to this conventional understanding, Jung argued that rather than running away from the Shadow, an individual is better served if they acknowledge it and then, crucially, integrate it

into their lives. According to Jung, failure to identify and integrate this shadow results in self-alienation or identity crisis. Therefore, identifying and acknowledging the problem/the Shadow is the first step, followed by the integration of the Shadow into the person. In other words, it is the successful integration of the Shadow, rather than total ignorance or—upon discovering or becoming conscious of the Shadow—denial of it, that delivers a person from themselves and, so to say, makes them "whole." As such, knowing one's Shadow and coming to terms with it—as Jung put it, integrating it into the person—as such is discovering one's authentic self.

One important application of integrating the Shadow is that it can productively serve as a guiding framework for approaching Ethiopia's past and future. Rather than disparaging what is actually wrong with Ethiopia's past or underplaying or ignoring it altogether, this framework suggests that this history be integrated into the present and future of the life of the body politic of the state. Put differently, both the good and the bad ought to be considered part of the Ethiopian life story. To be sure, this is not to say that all those ills are to be condoned or that the task of integrating is an easy one by any stretch of the imagination. Rather, it is to accept that they are part and parcel of the Ethiopian biography/historical genesis, there is nothing wrong with that from an ethical standpoint, and, more importantly, as Jung's conception of the Shadow drives home, it is a necessary and useful way of identifying an authentic Ethiopia.

DISCUSSIONS

Dr. Abadir M. Ibrahim

I have two literary leads you might want to follow. First, for the purpose of showing the connection between language and reality, rather than the Babylon story, you might want to pick up the Biblical reference: "In the beginning was the Word, and the Word was with God, and the Word was God." I think this is about

words and discourse becoming reality and reality coming back to being "the word." I think this analogy or metaphor might be a better one. And in the spirit of inclusiveness, I suggest picking up the first sentences of the Quran, which states in part as "Read in the name of your Lord Who created … Read in the name of your lord … who taught by the pen, taught humanity that which they knew not." I mean, it does not get better than this. The Quran's first words include "read" and "creation" and a couple of words down you have God teaching humanity with a "pen," and then the Bible is telling us in the very beginning there was the "Word"! Both the Bible and Quran are intertwining "words" with "creation" and with "knowledge," meeting your argument more than halfway.

Dr. Juweria Ali

I found it really very interesting the way Ethiopia's postcolonial identity is framed. But I think there is slight simplification of the way Ethiopia appropriated or manipulated Western colonial discourses. The use of the League of Nations as an example is very interesting. The claim to civilization or appealing to European standards without necessarily accepting those standards can be looked at in a broader way. I think it was not only as a means to resist European imperialism that Haile Selassie appealed to European civilization. This is actually a feature of historic Abyssinia; we can see the writings of emperors Yohannes and Menelik to British monarchs—where they used terminologies like subjecting heathens, pagans, Muslims, and slaves—as reflecting European superiority and their discourse of civilization to justify why they should subjugate others. So, it was not only to realize their own agency that they did this—to be seen as a civilized nation by European states—but it was also very much a feature of historic Abyssinia.

I think there is a room for greater appreciation of Ethiopians' negotiation between the statuses of victims and aggressor. The period of Italian occupation is a very interesting era to look at. But in terms of problematizing Ethiopia's postcolonial identity, I think it would be a shame not to take stock of the very anti-black elements of state ideology, which, paradoxically on one hand, capitalized on the global movement for black liberation, Pan-Africanism, and greater rights, but at

the same time very much emphasizing its own non-black phenotype by emphasizing Semeticism and other elements of historic Abyssinia.

Dr. Abdi Jibril Ali

I sometimes get angry about importing ideas from the West; sometimes trying to implement them without contextualizing them can have very disastrous consequences. But I then wonder, can we actually avoid importing those ideas in this era of globalization? And I would like to relate this problematization of the importation of ideas to Dr. Mohamed's presentation. He said the main challenge (ethnicization of the political space in Ethiopia and the attendant rise in ethnic conflicts) started in 1991 with the success of ethnonationalists forces. But what if I see it differently as a success of liberalism or capitalism over communism? This is one indication of the importation of ideas from the West; whether it is capitalism or communism, it is all imported.

Dr. Zelalem Mogessie Teferra

As Prof. Teshale Tibebu says, Ethiopia is anomalous country by African standards: it is inside Africa but at the same time also outside Africa; it is present and also absent; and according to Prof. Assefa Jaleta, Ethiopia claims to be independent and anti-imperialist but at the same time it colonizes its own people. In all the countries I travelled to in Africa, there are anomalies specific to each country. So, the question is, why do we think Ethiopia is more anomalous compared to other countries? There may be particular nuances to Ethiopia's anomaly, but still Ethiopia shares the anomalies of other countries across the world.

You also said that one of the biggest problems we are having is uncritical appropriation of Western ideas. Maybe that is true, but there is also another problem or the other side of this narrative; in Ethiopia, there is a culture of a blind suspicion and a default negative reaction to everything foreign and sometimes an uncritical rejection of Western values. The problem has a dual nature, which is characterized by uncritical appropriation of Western values and ideas but also uncritical rejection of anything foreign. It should also be remembered that there

was also acceptance of, at least during EPRDF era, East Asian ideas like kaizen and the developmental state ideology.

Melhik Abebe

I am intrigued by the section of your paper that talks about the past and how it needs to be addressed to allow for a working social contract. I want to state the need for us to agree that, in our past, there are some things that were bad and some things that were good. We cannot leave it by saying that one side does not agree with the other side. Inaugural sins need to be addressed in a negotiated social contract or through constitutional review processes that come forward. Without doing that, there is no hope of us doing away with the wounds that ail us now.

Another point I want to make relates to what we saw in the past few years, that is the use of state resources to renege on or take back concessions about Ethiopia's past that were gradually extracted through revolution as well as resistance struggles. There is an effort, it seems an unprecedented one, that comes from the state to renege on those concessions that were agreed to and codified in the Constitution. So, I believe that we should not do that if, as you rightly said, we should not uncritically appropriate and supplant ideas from somewhere else to Ethiopia's context. We will in fact be guilty of uncritically appropriating Western ideas if we pretend that Ethiopia's modern political history was not very heavily leftist, that it did not teach us some things or bring us some [good] concessions, however gradual that may be. If we start from scratch, as if these past decades did not happen, then I think we will be even more guilty of uncritically appropriating ideals that came from somewhere else. Because, even if the leftist tradition came from somewhere, it has over the decades become as Ethiopian as it can get.

Dr. Berihun Adugna

Under normal circumstances it would have been great if we could start with Ethiopia's political identity in a postcolonial context. We do not talk about it in our political discourse but I think that it is foundational in many ways. It has structured our political problems. If you look at Ethiopia in the postcolonial

context, it joined the community of nations when it was independent and secured, but not on equal terms and equal bases. So, its membership in the community of nations was somehow unequal and externally vulnerable. That situation created lack of internal cohesion and increased external vulnerability. So, the modern Ethiopian state started its statehood with external vulnerability and lack of internal cohesion. This, I think, is where your idea of postcoloniality comes in. My question is whether self-alienation could be the proper frame to think about these issues.

For example, you can see what the Ethiopian state has been doing since Adwa: it was incorporated (think of the 1931 Constitution promulgated by Haile Selassie); there have also been waves of codifications in the 1950s and 1960s and also the 1995 Constitution. What you see in all these is the incorporation of Western values and ideas. So, the country has to respond to two demands: it has to respond to the demands of the international community and Haile Selassie has to respond to that by adopting a constitution. He also did those things in a way that changed the internal power dynamics that structured the political struggle in the country. Likewise, if you see the 1995 Constitution, they had to frame the political settlement in the language of human rights and the language of democracy; it is a human rights state. The Constitution is all about human rights, democratic rights, and self-determination. From an international perspective, if you simply look at it, Ethiopia is a human rights state. The only difference with South Africa is that South Africa is based on individual rights while Ethiopia is based on group rights.

So, our state and government have been responding both to the demands of the international community, partly because we are incorporated on unequal terms, and we have to accommodate those demands, but at the same time they have to also respond to some of the local demands. Yet our conversations, even on the nationality question, did not pay much attention to Ethiopia's integration into the international community and the liability that comes with it.

My other question is related to human rights and the rule of law. Yes, they have dark sides, but what are these dark sides and what is your take about them?

Dr. Adem Kassie Abebe

For me, the conversation about history is about two things, which are related but also distinct. The first one is about being heard, in the sense of being understood in their story about how they experienced the state and the political system at a particular time. They particularly wanted to be heard by people who rejected their ideas. It is only about being heard and understood, not necessarily agreed with.

The second one is how that background should then be the basis for the kind of institutional, political or epistemic architecture we want to build. These two are related but they are distinct. I say they are distinct because we can debate on what kind of state we want and what kind of epistemic community we want to build, without reference to the state system. We could have justified the current system without necessarily agreeing; we could have built the current system without a background of past repression. So, creating that distinction may be helpful; we can look at them separately but not ignore any of them.

Reply: Dr. Shimelis Kene

To Juweria: Yes, you are right, I have simplified Ethiopia's postcolonial identity. I will address all those questions in an upcoming book chapter. Regarding those orientalist constructs like pagans and Muslims, yes that is right but the focus of my essay is Ethiopia's postcolonial identity relation vis-à-vis the West, not internal colonization.

On Abdi's question of whether Ethiopia can avoid importing Western ideas or live as an island, the answer is no. The point I am trying to make is, let us be reflective on the ideas we import; I am not saying we should not import. From a postcolonial or third world perspective, when we resist Eurocentrism we are not really disagreeing with European views; we are only resisting the construct that European ideas are higher in a hierarchy. So, the point is Europe should be seen as being co-equal with others, rather than the source. So, we always should ask that kind of question, especially in the intellectual community.

Zelalem reminded us of the historian Teshale Tibebu's characterization of Ethiopia as an anomalous identity. Yes, Teshale speaks about Ethiopia's image, but he speaks from the European perspective, how Europeans view Ethiopia, listing seven or eight European constructs of Ethiopia. Teshale also raises the anomaly of Ethiopia's identity in relation to the image Ethiopia itself projects within the African context. The other constructs are just Eurocentric; Ethiopia does not really have a role in those constructs.

To Melhik: Yes, you are right, although, as this is a work in progress, I have not fully and clearly spelt out the idea—I was actually talking about the good and bad in Ethiopia's past, and how integrating both is good for the future of Ethiopia.

To Berihun: All these are very important questions. As regards the League of Nations, it is a very complicated history. I address this in the context of colonial international law and how Ethiopia encountered it, especially in the interwar period, and how Ethiopia approached it; Haile Selassie's involvement and the discourse of civilization; how the League of Nations applied the so-called Standard of "Civilization" and then used that standard to justify Italy's claim that Ethiopia was "uncivilized" and that it needed Italy's tutelage to redeem itself from its barbaric state and, hence, to justify Italian colonization of Ethiopia. It is a complicated history. An important point I wanted to make is Haile Selassie used it to some extent to Ethiopia's benefit, but that is also a complicated history and I do not want to go into that in detail.

Breaking the Dialectics of Political Unsettlement in Ethiopia

Dr. Semir Yusuf

Abstract

Ethiopia's political climate has long suffered from recurrent political unsettlement. More often than not, political unsettlement has been punctuated by the deep ethnic divisions and contentious nationalist mobilizations prevalent in the country. This paper will delve into factors that perpetuate political violence in Ethiopia and ask what national dialogue could offer in our efforts to transcend these factors. Negating state-centered and society-based explanations for the persistence of contentious nationalisms, I will develop a dynamic model that considers the dialectical relationship between state agents and societal actors in producing undesirable political outcomes. Such an argument helps accord agency to all relevant forces, highlights the paradox of state policies having unintended and unexpected political consequences, and points to a more fundamental predicament that needs to be addressed to make progress toward a political settlement. I will then underscore the need for forging a new social contract through national dialogue, addressing questions around the optimal constitutional designs for managing diversity, on the one hand and re-ordering state-society relations in ways that tackle the democratic deficit in the country on the other.

Introduction

I think it is time to talk about the origins of ethnic division in Ethiopia and the need to forge a new social contract through an inclusive, participatory national dialogue process. I will discuss about breaking the dialectics of political unsettlement in Ethiopia and the role of national dialogue in forging a new social contract in terms of transcending that political unsettlement. By "political

unsettlement," an expression I borrowed from a recent publication by Jan Pospisil[1], I mean the kind of political environment where actors negotiate and interact violently; basically, a politically unstable general climate. Ethiopia has suffered from recurrent political unsettlement, which has been punctuated by contentious nationalisms and ethnic division, with significant implications for human lives.

In this contribution I will be addressing two questions. First, what really explains this perennial problem in Ethiopia around ethnic division? Second, what role can national dialogue play in terms of transcending, overcoming, or effectively managing our persistent ethnic divisions?

1. A Dialectical Approach to Understanding Ethiopia's Recurrent Political Unsettlement

There could be a number of explanations for the persistent ethnic fragmentation in Ethiopia. I would like to build my own analysis on rampant explanations often provided by two contending blocks in Ethiopian politics. On the one hand we have the so-called pan-Ethiopian nationalist perspective propounded by many Ethiopians who argue the Ethiopian People's Revolutionary Democratic Front (EPRDF) is the organ most responsible for the persistence of ethnic fragmentation in Ethiopia. The argument here is that the EPRDF, or Tigray People's Liberation Front (TPLF) on top of it, institutionalized ethnicity and in doing so solidified or froze ethnic identities, leading to ethnic fragmentation and posing the risk of state failure as some fear today. Here, everything is focused on the EPRDF and what it did to society.

There is another explanation contrary to the one described above, usually propounded by some ethnonationalist elites. And the argument here is that ethnonationalist struggle started before the EPRDF was constituted. More importantly for them what maintains the ethnonationalist dream is societal forces

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[1]   Jan Pospisil, *Peace in Political Unsettlement: Beyond Solving Conflict* (2019).

more than EPRDF itself, in the sense that the armed groups, the oppositional media, the CSOs, and the opposition political parties all play a very important role in continuously promoting and propelling ethnonationalist struggles. By doing this, they kept on pushing ethnic agendas in the country. So, much of the explanation here is credited to societal forces.

These two explanations start from different planes. The first explanation is state-centric; it is basically about EPRDF and what it did to the society as the state agent. And the other explanation focuses on social forces: the armed group, the opposition media, the CSOs, and the opposition parties as the main forces maintaining the ethnic struggle and dream. So, these are contending explanations about the persistence of ethnic division in Ethiopia. I believe that these explanations are defective; they do not help us understand the complete picture of what has happened in this country in the last couple of decades. So, I would like to develop a dynamic model, which I would call the dialectical relationship between state and society, of a cycle that is quite important in explaining the persistence of ethnic divisions in Ethiopia.

Why is a dialectical explanation important? I believe it is important for three reasons, the first of which is that it accords agency to all relevant actors in our country, instead of rendering the state as the most important agent in the entire production and reproduction of ethnic divisions, and so rendering society as a helpless passive reactive factor in the entire dynamic.

The second significance is that the dialectical approach also helps us to highlight the paradox of state policies: They bring about unintended consequences, which in this case describes successive regimes in Ethiopia that tried to wipeout ethnonationalist struggle to control the ethnic dream, but in the process of trying to control it actually contributed to the amplification and acceleration of ethnonationalist struggles as an unintended consequence of state policies.

The third significance of the dialectical approach lies in helping us to locate the most fundamental predicament in our society that perpetuates the cycle of

instability and political violence through persisting contentious nationalist mobilization and ethnic division in Ethiopia.

So, what does this dialectical state and society relationship look like? It has two flanks. The first is the repressive flank. The second is the partial accommodation flank. Sometimes ethnonationalist movements challenge the state or successive regimes in Ethiopia and the regimes responded through repressive means, and that contributes not to the dampening of ethnonationalist struggles but to the further acceleration of the tension between societal actors and state agents (that is the repressive angle).

Yet authoritarian governments do not always rely on repression alone. They also try to legitimize their rule through partial accommodation. The interesting thing is that, even when ethnonationalists are partially accommodated into state structures and the body politic, they use the infrastructures of the party and the state to their own advantage to further propel ethnonationalist struggles. So, the outcome is that this interaction between societal forces and state agents has continued to perpetuate and reproduce ethnic division and fragmentation in Ethiopia. I have examples to illustrate my points. From the repression angle, it began during Emperor Haile Selassie's time, when Eritrea was forcefully incorporated into Ethiopia and some of the forceful measures were taken against the nascent Oromo-centric movements through the Mecha and Tulama Association. Both forceful measures contributed to the solidification of Eritrean and Oromo struggles against the Ethiopian state.

During the Derg's period, repression was taken to a whole new level, which included meting out massive repression in Eritrea and in Tigray, which spurred civilians to join armed groups in these two regions, thereby bolstering the TPLF, TLF, ELF, EPLF, etc. The Derg paradoxically paved the way for the final capture of the state power by ethnonationalist forces by decimating multiethnic parties like Ethiopian People's Revolutionary Party (EPRP) and All-Ethiopia Socialist Movement (AESM) (better known by its Amharic acronym መኢሶን (*Me'ison*). So, the Derg was fighting against the ethnonationalist forces to the extent possible,

but after multiethnic parties were extinguished, the only power left to fight for the "Ethiopian cause" was the Derg; with the destruction of the Derg, ethnonationalist forces represented by TPLF and EPLF very smoothly captured state power in 1991, representing another unintended consequence of state policies against ethnonationalist forces. The EPRDF came in and constructed multinational federalism while at the same time centralizing state power through a hierarchically organized party structure that blocked the aspirations of rising ethnic elites and fueled grievances among several ethnonationalist groups in Ethiopia. Of course, the EPRDF meted out massive repression against several ethnonationalist groups, but this did not contribute to a permanent dampening but rather an accelerated infestation of Ethiopian politics by rising ethnonationalist groups and social movements of different sorts, as we witnessed by 2015. The current administration as well, by singlehandedly leading the transition process, fueled grievances among several ethnonationalist elites. Finally, the civil war, with all its atrocities in different parts of the country, contributed once again to the re-solidification of the Tigrayan identity and their struggle against the center.

So, all of these processes and the examples illustrate a very important fact: The repressive tactics of successive regimes, although meant to dampen ethnonationalist struggles, have actually fueled these struggles and contributed to the persistence of ethnic divisions and contentious nationalist mobilizations in Ethiopia.

On the other hand, successive regimes in Ethiopia did not rely solely on suppression; they also partially accommodated ethnic demands and ethnonationalist elites into their power, party structure, and even state structure, and there are several examples to prove this. During the Derg period, the Land to Tiller proclamation was an initial attempt to concede to societal demands and, in part, ethnonationalist demand as well. The Derg also made use of local languages for official purposes, which basically empowered local languages and cultures in different parts of the country. At the end of the regime it also accepted the idea of autonomous regions, especially in those areas where there was stiff resistance against the center. Again, this was reacting to societal demands and armed

struggles; although not implemented, it was one concession made by the state to the ethnonationalists' struggle. The EPRDF established a multinational federal system with the aim of accommodating group demands; the current administration as well, after 2018, opened up the highest echelon of state and party structures to cater to marginalized groups in the country.

So, all these were successive attempts to partially accommodate ethnonational demands. But the interesting thing is that even when ethnonationalist elites were partially accommodated into state structures and the body politic, they actually used the infrastructures of the institutions available to them to further propel contentious ethnonationalist struggles. One glaring example to this is what happened in 2015, 2016, and 2017 when Oromo and Amhara social movements in Oromia and Amhara used the structures of Oromo People's Democratic Organization (OPDO) and Amhara National Democratic Movement (ANDM) to further push ethnonationalist struggles to the point of dislodging TPLF from its hegemony. So, ethnonationalists pushed the state to concede and when the state conceded partially, they used the infrastructures opened to them to push for further struggles. This contributed again to the perpetuation of ethnic division and ethnonationalist struggle.

So, what we are witnessing today in Ethiopia in the form ethnic division and ethnic fragmentation is the product of the dialectical relationship between state agents and societal forces. It is what the state did to society and society did to the state. It is practically impossible to focus on one and forget the other, to just blame the EPRDF for what happened or to just credit ethnonationalist struggles for maintaining ethnonationalist dreams, a view that is hypothetical and rosy. It is the interaction between these two forces that produced this predicament we are in and which has continuously produced and reproduced political violence in our society.

2. The Role of National Dialogue in Managing Ethiopia's Recurrent Political Unsettlement

Therefore, in my view the point is to look for a solution that moves away from recurrent political unsettlement gradually towards some sort of political settlement that should, in my view, be inclusive and participatory in its approach. We have to move away from the victor's political settlement to a more inclusive and participatory political settlement in forging a new social contract.

What does the new social contract should look like and what are the issues that it should primarily address? First, it should address, through an inclusive participatory political process, the question of constitutional design for Ethiopia: is it consociationalism, or corporatist consociationalism, or liberal consociationalism, or a mix of the two, or centripetalism, or could we mix aspects of centripetalism with consociationalism, or can we take some lesson from integration so that it can complement what consociationalism and centripetalism may offer to Ethiopian politics and society? We need to arrive at an optimal institutional design to reconcile divergent dreams and visions in this country, and that should be done through an inclusive and participatory national dialogue process.

There is a second very important thing that the new social contract should address—state-society relations. It is one thing to arrive at an excellent constitutional design for accommodating nationalist demands, but it is a completely different thing to reorder state-society relations. One factor that bedevils our politics, perpetuating our recurrent political violence, is how the state agents interact with societal forces. In other words, we need to respond to the democracy deficit in our country by, on the one hand, disciplining the Ethiopian state and making societal movements and demands orderly and constitutionally determined. So, democratizing state-society relations is at the heart of our problem alongside the question of addressing constitutional design to reconcile divergent perspectives in Ethiopia. Furthermore, the two issues are not completely isolated from each another; it is very difficult to address Ethiopia's democracy deficit without addressing the national question. On the other hand, it is almost

impossible to effectively address the national question without addressing the democracy deficit in this country. So, when we conduct national dialogue to forge a new social contract in this country, we have to realize that we are not at liberty to resolve one thing at a time; we have to try to resolve the two problems at the same time. We have to look for solutions that are co-constitutive rather than contradictory. So, the kind of solutions and policy recommendations we make to resolve the national question should also help us resolve, directly or indirectly, our democracy deficit, and the kind of policy recommendations we make to resolve our democracy deficit should contribute toward the resolution of our national question. There is no way to resolve one problem and shelf the other for a while; the two are very much interlinked. Until and unless we find ways and mechanisms of dealing with the two problems at the same time, we will continue with our recurrent political unsettlement and with the very undesirable dialectical relationship between state and society.

DISCUSSIONS

Dr. Abdi Jibril

My question is how do you factor in our political culture, in the sense that power in Ethiopia usually transfers through violence, not through negotiation? How do you see this problem? Opposition political parties seem democratic but once they get to power, I assume they will continue repressing and persecuting others; that is my fear. So, how do you see that cultural factor?

Dr. Zelalem Mogessie Teferra

You said that the ethnonationalists' movement has been fueled as a reaction to state suppression. But is it not a two-way street? When the ethnonationalists assume power they suppress the pan-Ethiopianists, and the pan-Ethiopianists respond in their own way, inflaming ethnonationalism. I think that the whole

thing should be looked at as an exchange of fire between the two contending blocks and that should also be part of our analysis.

Semir, you also said that when ethnonationalists are accommodated, interestingly, they used state structure to promote ethnonationalist agenda. But given the situation that we have seen in Ethiopia over the last 30 years, rather than accommodation is it not the institutionalization of ethnonationalism that led to inter-ethnic competition? I know many observers say that in 2018 pan-Ethiopianist forces (or as some say, unitarist forces) took over state power from ethnonationalists, but in my assessment, TPLF was toppled by ethnonationalist forces, not by pan-Ethiopianist forces. So, for me it seems that the more you institutionalize ethnonationalism the more you promote intra- and inter-ethnic competition; I think it would be good if you reflect on this.

Dr. Getachew Assefa Woldemariam

In my own presentation I was arguing that the national question in Ethiopia is a false question, because the national question, as articulated in the Marxist-Leninist theory, presupposes the existence of an oppressor group, and the oppressor was the government, which does not have ethnic identity. In that sense, how do you see the issue of the national question in Ethiopia? And if we say the national question existed in Ethiopia, which elements of it are not answered at the moment? I ask because the current constitution prides itself on answering all national questions. You said that we have to resolve the democracy deficit and the national question at the same time; so, my question is what national question is there that is unresolved?

Reply: Dr. Semir Yusuf

On the question of our political culture, I agree with you that the political culture that infests our politics is very much inimical to democratic practice and that it has repeatedly undercut any possibility for democratic power transition in this country. While acknowledging this problem, I do not want to overemphasize it, in the sense that—sometimes we tend to assume that we cannot have a democratic

state until we completely transform our political culture, but that is not how democracy takes root in society. The countries that we consider today to be paragons of democracy, including Europe, were at some point feudal, autocratic, and repressive states; it is through gradual progression of institutional inclusion and compromise that they went on to develop the kind of culture that they have today. So, we should not assume that, because our political culture is feudalistic, exclusivist, and anti-democratic, we are doomed to stay forever where we are now. Second, we have to use national dialogue as a means and as an end. The means part is: It is an educational process by itself if it is done correctly, meaning it is credible, inclusive, and independent. The national dialogue process by itself can help us inculcate a culture of dialogue, and then the outcome could be designed in such a way that this problem of anti-democratic political culture is addressed through the establishment of institutional mechanisms with checks and balances of the state and its interactions with society. So, we should take the national dialogue seriously, if that is at all possible in the current dynamics. Both the process and the end itself can help us overcome the quagmire of anti-democratic culture in this country.

The other interesting question I want to reflect on is the point you made about the institutionalization of ethnonationalist demands; that is, for me, another way of saying accommodation through grand coalition, proportional representation, segmental autonomy, and mutual veto. But the interesting thing in the Ethiopian case is that rebellious movements during the EPRDF's era emerged both inside and outside the institution that EPRDF erected. So, during the social movements (the Qeerro movement, the Fano movement, etc.) what actually happened was that social actors outside the state collaborated with political actors that are accommodated into the party and state structures in rebellion against the TPLF. So, you see, it is a dialectical relationship between state and society that is perpetuating ethnic divisions in the country.

The other point you raised is the switching of place, that the ethnonationalists suppress pan-Ethiopianists when they assume power and vice versa. But I would like to point out that repressive governments do not discriminate; they oppress

anyone rising against them. The Derg repressed ethnonationalists intensely, but it was also fighting against apparent Ethiopian nationalist political groups like Ethiopian Democratic Union (EDU) and multiethnic parties like EPRP and መኢሶን (*Me'ison*). It did not discriminate in that regard, and that contributed to its downfall. The same is true for the EPRDF in its indiscriminate suppression of political groups. The EPRDF repressed and oppressed, not only the Ethiopian nationalists, but also the ethnonationalists. That is why they mobilized their constituencies on the basis of the repression that the state meted out against them to the point where, by 2015 it nearly became impossible for the TPLF to sustain its power. So, the dialectics between state and society propped up once again, whereby state policies meant to dampen ethnonationalist struggles contributed to their acceleration and finally the downfall of those very regimes who were fighting against the ethnonationalist groups.

On the issue of the national question, first and foremost, our acceptance of the existence of national oppression does not, in my view, necessitate accepting the idea that one national group oppressed another national group. There could be discrimination against people on the basis of their identity—ethnicity, religion, or culture—without assuming that a certain national group, like the Amhara for example, oppressed other ethnic groups in Ethiopia. I believe there was national oppression in the past in Ethiopia, but I do not assume (and it is actually reprehensible to assume) that the whole body of an ethnic group oppressed other nations and nationalities in Ethiopia. I agree with you that it is the state that did the oppressing and not societal groups or ethnic groups against national groups.

Regarding the remaining national questions: At this time, what are the kinds of things we are still arguing about as Ethiopians to the point of perpetuating the political unsettlement that needs to be resolved? There are many contentious matters: the symbol of the state, the federal structure, and government type. We need to resolve these by forging a new social contract through an inclusive and participatory national dialogue process. And we have to eschew this rosy idea that national dialogue can help us resolve all these disagreements in the short run. I believe the short-term effect of the national dialogue will be the forging of

institutional mechanisms whereby we can debate on contending issues without resorting to conflict, and this can be capitalized in the long run towards establishing a real political settlement. So, we have to do this gradually in terms of reconciling divergent perspectives in our country.

A final point: It is in the very nature of nationalism that once it kicks off, it does not stop; it has this quality of internally reinforcing itself. It starts off as a reaction to repression, it puts out some demands and then it establishes institutions like armed groups, media, international relations, opposition parties, funding agencies, etc. That is why we need to sit down and see what kind of things we agree on in the short run and what kind of institutions we can establish for disagreeing without resorting to violence, and in the process reach a new political settlement through a new social contract.

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The contemporary Ethiopian state is, without question, facing enormous challenges, including the militarization of state and non-state actors, high population density accompanied by youth unemployment, food insecurity, real and perceived inequality and discrimination among ethnic groups, ethnic and political polarization and widespread human rights abuses. At the core of the issues faced by Ethiopia lies the state-building process by which major constituencies and elite groups were either alienated from, or coopted into, ruling structures. Unable to derive political legitimacy from democratic participation, successive governments largely relied on coercion and neopatrimonialism, modulated by constitutional narratives and reform efforts including those of the imperial regime's attempts to regulate government functions by a written constitution, the Derg's land law reforms and the abolition of the gabar system, and the EPRDF's recognition and promotion of linguistic and cultural rights. Despite initially promising political, legal, and institutional reform initiatives undertaken by the incumbent regime, Ethiopians remain divided in their views about what kind of constitutional structure has the greatest potential to unify the country without compromising diversity.

Within this context, Northwestern University's Pritzker School of Law and Roberta Buffett Institute for Global Affairs, in collaboration with the Addis Ababa University College of Law and Governance Studies and the Harvard Law School's Human Rights Program, convened Ethiopian scholars from a wide variety of fields including constitutional law, federalism, history and political science to present papers and essays on the future of the Ethiopian social contract, which are included in this collection.